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THE  
LEGISLATIVE ASSEMBLY DEBATES

(OFFICIAL REPORT)

VOLUME IV, 1933

*(31st March to 12th April, 1933)*

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FOURTH SESSION  
OF THE  
FIFTH LEGISLATIVE ASSEMBLY,  
1933.



SIMLA  
GOVERNMENT OF INDIA PRESS  
1933

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# Legislative Assembly.

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THE HONOURABLE SIR IBRAHIM RAHIMTOOLA, K.C.S.I., C.I.E. (Upto 7th March, 1933.)

THE HONOURABLE MR. R. K. SHANMUKHAM CHETTY. (From 14th March, 1933.)

## *Deputy President :*

MR. R. K. SHANMUKHAM CHETTY, M.L.A. (Upto 13th March, 1933.)

MR. ABDUL MATIN CHAUDHURY, M.L.A. (From 22nd March, 1933.)

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SIR ABDUR RAHIM, K.C.S.I., KT., M.L.A.

SIR LESLIE HUDSON, KT., M.L.A.

MR. MUHAMMAD YAMIN KHAN, C.I.E., M.L.A.

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MR. S. C. GUPTA, C.I.E., BAR.-AT-LAW.

## *Assistants of the Secretary :*

MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

RAI BAHADUR D. DUTT.

## *Marshal :*

CAPTAIN HAJI SARDAR NUR AHMAD KHAN, M.C., I.O.M., I.A.

## *Committee on Public Petitions :*

MR. R. K. SHANMUKHAM CHETTY, M.L.A., *Chairman*. (Upto to 13th March, 1933.)

MR. ABDUL MATIN CHAUDHURY, M.L.A., *Chairman*. (From 22nd March, 1933.)

SIR LESLIE HUDSON, KT., M.L.A.

SIR ABDULLA-AL-MAMÜN SUHRAWARDY, KT., M.L.A.

MR. B. SITARAMARAJU, M.L.A.

MR. C. S. RANGA IYER, M.L.A.



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# LEGISLATIVE ASSEMBLY.

Friday, 31st March, 1933.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) in the Chair.

## UNSTARRED QUESTIONS AND ANSWERS.

### OCCUPATION AND VACATION FORMS FOR THE GOVERNMENT OF INDIA PRESS QUARTERS, NEW DELHI.

151. **Mr. S. C. Mitra:** Is it a fact that no occupation and vacation forms are maintained for the Government of India Press Quarters, New Delhi? If so, why?

**The Honourable Sir Frank Noyce:** The answer to the first part is in the negative. The second part does not arise.

### DEPUTATION OF A CLERK AS MONO LEARNER IN THE GOVERNMENT OF INDIA PRESS, NEW DELHI.

152. **Mr. S. C. Mitra:** Is it a fact that the compositors have better knowledge in composing work than the clerks and other industrial hands and uptil now they were taken as Lino and Mono learners? If so, why has a clerk been deputed as Mono learner in the Government of India Press, New Delhi, depriving the compositors?

**The Honourable Sir Frank Noyce:** Compositors have a better knowledge of hand composing, but have not always been selected as Lino and Mono learners because a knowledge of hand composition is not strictly essential. The second part does not arise.

### DENIAL OF PENSIONARY BENEFITS TO CERTAIN EMPLOYEES OF THE GOVERNMENT OF INDIA PRESS, NEW DELHI.

153. **Mr. S. C. Mitra:** (a) Is it a fact that the old day-extra hands of the Government of India Press, New Delhi, recruited prior to 15th July, 1920, have been denied the pensionary benefits? If so, why?

(b) Is it not a fact that the late Munitions Board gave a decision that all the old hands who were in the day-extra and extra establishments at the time of reorganisation of the Press in 1920 will be given pensionary benefits and not contributory provident fund, and this fact was circulated to all Government of India Presses through the then Controller of Printing (Mr. M. J. Cogswell) vide U. O. I. No. 138-Pg., dated the 10th January,

1921, in answer to a question for the same raised in the first meeting of the Delhi Press Works Committee? If so, why have Government now departed from their own decision?

(c) Are Government prepared to reconsider the case and exempt those old men from contributory provident fund and give pensionary benefits?

**The Honourable Sir Frank Noyce:** (a) and (b). Service rendered in a day-extra establishment does not qualify either for pension or for admission to the Contributory Provident Fund. Under the orders referred to in part (b) of the Honourable Member's question, the men employed in the regular sanctioned establishment on the 15th July, 1920, who at the time of retirement become eligible for pension are, as a special concession, allowed to count their day-extra service towards pension. Government have not departed from this decision.

(c) Does not arise.

#### **RULES FOR PROMOTION OF CLERKS IN THE GOVERNMENT OF INDIA PRESS, NEW DELHI.**

154. **Mr. S. C. Mitra:** Will Government be pleased to state the rules relating to promotion of clerks in the office of the Manager, Government of India Press, New Delhi, and state whether any promotion from a lower grade to a higher grade is given on the result of any departmental examination; if not, why not?

**The Honourable Sir Frank Noyce:** The rules lay down that promotions of clerks from a lower grade to a higher grade should be made on merit provided attendance and conduct are also satisfactory. There is no provision for departmental examination in the rules as such a course is not considered ordinarily necessary.

#### **HOURS OF ATTENDANCE OF THE CLERICAL STAFF OF THE GOVERNMENT OF INDIA PRESS, NEW DELHI.**

155. **Mr. S. C. Mitra:** Will Government be pleased to state the hour of attendance of the clerical staff of the Government of India Press, New Delhi, and the penalty or punishment to habitual late comers?

**The Honourable Sir Frank Noyce:** The hours of attendance are from 10 A.M. to 5 P.M. except on Saturdays when they are from 10 A.M. to 2 P.M. In case of habitual late attendance, suitable departmental action such as stoppage of increment or reduction to the next lower grade may be taken against the person concerned.

#### **HINDU AND MUSLIM RAILWAY EMPLOYEES AT ALIGARH JUNCTION.**

156. **Shaikh Fazal Haq Piracha:** (a) Will Government be pleased to lay a statement on the table showing the number of Muhammadan and Hindu Railway employees (excluding menial staff) at Aligarh Junction?

(b) How many Hindu Ticket Collectors, parcel and goods clerks and the Assistant Station Masters are at Aligarh Junction and for how long have they been there?

(c) Are Government aware that Aligarh is the centre of Muslim education?

(d) Is it a fact that number of employees at the Aligarh Junction consists of an overwhelming majority of Hindus?

(e) Are Government aware that Hindu Travelling Ticket Examiners have recently started harassing University students at Aligarh Junction?

(f) Has any complaint been brought to the notice of the authorities to the above effect?

(g) If the answer to part (f) be in the negative, do Government propose to inquire about the complaint of the students?

(h) Are Government aware that recently a Hindu Travelling Ticket Examiner gave false charge sheets against two respectable Muhammadans which the police on enquiry found to be baseless?

(i) If the answer to part (h) be in the negative, do Government propose to inquire into the facts?

(j) Are Government prepared to post a sufficient number of Muhammadan staff at Aligarh?

(k) Have the Railway authorities received any representation from Aligarh? If so, what action do they propose to take on it?

**Mr. P. R. Rau:** (a), (b) and (d). Government regret they are unable to supplement the information with regard to the communal composition of staff contained in the annual administration reports of railways with details regarding individual offices or departments.

(c) Yes.

(e), (f), (g), (h), (i), (j) and (k). Government have received no representations on the point. I am sending a copy of this question to the Agent of the East Indian Railway for any action that may be considered necessary.

**COMMUNAL COMPOSITION OF EXECUTIVE ENGINEERS, SUB-DIVISIONAL OFFICERS AND SUBORDINATES SERVING UNDER THE CENTRAL PUBLIC WORKS DEPARTMENT, NEW DELHI.**

157. **Mr. M. Maswood Ahmad:** (a) Will Government be pleased to state the total number of Executive Engineers, Sub-Divisional Officers and Subordinates, communitywise, serving under the Central Public Works Department, New Delhi?

(b) Is it a fact that the majority of officers in the above categories are unqualified men and some of them have been kept on in preference to qualified men who have been discharged from service?

**The Honourable Sir Frank Noyce:** (a) I place on the table of the House a statement giving the information asked for.

(b) All the officers employed in the Central Public Works Department are qualified to hold their respective posts.

*Statement showing the number of Executive Engineers, Sub-Divisional Officers and Subordinates employed in the Central Public Works Department.*

	Executive Engineers including Electrical Engineer.	Sub-Divisional Officers including Temporary Engineers and Electrical Sub-Divisional Officers.	Technical Subordinates.
Europeans . . . . .	5	5	..
Anglo-Indians . . . . .	..	..	1
Indian Christians . . . . .	..	..	2
Hindus . . . . .	1	15	51
Muslims . . . . .	2	6	18
Sikhs . . . . .	1	3	13
Total . . . . .	9	29	85

**APPOINTMENT OF A MUSLIM AS EXECUTIVE ENGINEER IN THE CENTRAL PUBLIC WORKS DEPARTMENT, NEW DELHI.**

158. **Mr. M. Maswood Ahmad:** (a) Will Government be pleased to state whether it is a fact that on the retirement of Sardar Bishan Singh two non-Muslim Executive Engineers were appointed in the Central Public Works Department?

(b) Is it a fact that a promise was given by the Industries and Labour Member in 1931 that, when a vacancy in the post of Executive Engineer will arise the claims of a Muslim will be considered? If so, will Government be pleased to state what action was taken to appoint a Muslim in the vacancy caused by the retirement of Sardar Bishan Singh?

**The Honourable Sir Frank Noyce:** (a) On the retirement of Rai Bahadur Bishen Singh, Sardar Sahib Bahadur Singh was appointed to officiate in the vacancy to which Mr. A. Croad has recently been appointed permanently.

(b) I can trace no undertaking on the subject but that Government are sympathetic towards the demand for the adequate representation of minority communities in the Central Public Works Department, is shown by the fact that a Muslim was recently appointed as Executive Engineer in Rajputana, a post which now forms part of the cadre of the Central Public Works Department.

**MUSLIM ENGINEERS SERVING UNDER THE CENTRAL PUBLIC WORKS DEPARTMENT, NEW DELHI.**

159. **Mr. M. Maswood Ahmad:** Is there any senior Muslim Engineer serving under the Central Public Works Department who is qualified to hold charge of important divisions like the Provincial Division or Service Division?

**The Honourable Sir Frank Noyce:** Yes.

**CONTRACT OF MAJOR WORKS UNDER THE CENTRAL PUBLIC WORKS  
DEPARTMENT, NEW DELHI.**

**160. Mr. M. Maswood Ahmad:** (a) Is it a fact that contracts of major works under the Central Public Works Department are invariably given to a particular community even though their rates are higher than others? If so, why?

(b) Will Government be pleased to state how many contracts big or small during the current financial year were given in the "A" Division of the Central Public Works Department and how many were given to contractors of other communities?

(c) Is it a fact that the Superintending Engineer, Central Public Works Department and the Executive Engineer are partners of certain contractors of their own community? If so, under what rules is such a practice permitted?

**The Honourable Sir Frank Noyce:** (a) There is no foundation whatsoever for the insinuations made.

(b) Government do not consider that any useful purpose would be served by their calling for the information.

(c) The allegations the Honourable Member has made in this part of his question are of a very serious character. I have no reason to believe that they have any foundation, but I shall be willing to examine any evidence he may be able to adduce in support of them.

**DUTIES OF SUPERINTENDING ENGINEER, 1ST CIRCLE, CENTRAL PUBLIC WORKS  
DEPARTMENT, NEW DELHI.**

**161. Mr. M. Maswood Ahmad:** Will Government be pleased to state whether the charge of the Superintending Engineer, 1st Circle, is much bigger and more important than the 2nd circle in the Central Public Works Department? If so, do Government propose to appoint the senior officer in service to hold the more important charge? If not, why not?

**The Honourable Sir Frank Noyce:** The two Circles are of equal importance. The latter part of the question therefore does not arise.

**NAMES AND QUALIFICATIONS OF THE PERSONAL ASSISTANTS TO THE CHIEF  
ENGINEER, DELHI, APPOINTED FROM TIME TO TIME.**

**162. Mr. M. Maswood Ahmad:** (a) Will Government be pleased to state the names and qualifications of the Personal Assistants to the Chief Engineer, Delhi, appointed from time to time?

(b) Is it a fact that the Personal Assistants to the Chief Engineer, Delhi Public Works Department, were technical men possessing engineering qualifications, but the present Personal Assistant, who is now designated as Administrative Officer, started Government service as a clerk in the Punjab Secretariat?

(c) Is it a fact that when the new post on a higher scale of pay was created, the intention of Government was to appoint an officer with a knowledge of accounts and budget matters?

(d) Will Government please state whether the present officer has any special qualifications in accounts? If not, why has he been selected in preference to other suitable and qualified men?

**The Honourable Sir Frank Noyce:** (a) A statement giving the information asked for is appended.

(b) It will be seen from the statement that the last three Personal Assistants to the Chief Engineer, Central Public Works Department, did not possess any engineering qualifications. The reply to the last part of the question is in the affirmative.

(c) No. The proposal was to appoint either an officer of the Indian Audit and Accounts Service or an Assistant Secretary from the Government of India Secretariat, and an Assistant Secretary was finally selected.

(d) In view of the facts I have stated above, this part of the question does not arise.

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*Statement showing the names and qualifications of officers who have held the appointment of Personal Assistants to the Chief Engineer, Central Public Works Department.*

Name.	Qualifications.
Captain W. H. Roberts . . . .	Royal Engineers.
Mr. H. W. Milner . . . .	Indian Service of Engineers.
Mr. E. W. Grindal . . . .	Accountant (now in the Indian Audit and Accounts Service).
Mr. F. C. Richardson . . . .	Assistant Secretary, United Provinces Secretariat.
Mr. E. H. Brandon . . . .	Assistant Secretary to the Government of India.

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ADMINISTRATIVE OFFICER, CENTRAL PUBLIC WORKS DEPARTMENT,  
NEW DELHI.

163. **Mr. M. Maswood Ahmad:** (a) What are the circumstances under which the post of Financial Assistant was created under the Chief Engineer?

(b) Is it a fact that, as the present incumbent of the post of Administrative Officer, Central Public Works Department, had no knowledge of accounts, another officer as Financial Assistant was appointed?

(c) Is it a fact that the Administrative Officer has very little work to do and has been entrusted with the duties of the Estate Officer with an allowance of Rs. 250 or more per mensem?

(d) Are Government aware that the Administrative Officer gives orders to the Executive Engineers and Sub-Divisional Officers direct in the name of the Chief Engineer, which is very much resented by the Superintending Engineers concerned?

(e) Is it not a fact that the technical and non-technical staffs working under the Superintending Engineers are under their control and important cases are referred by them to the Chief Engineer for his orders?

(f) Is it not a fact that the Administrative Officer notes on those technical cases on behalf of the Chief Engineer and decides them?

(g) Do Government realise that there is very great discontent among the engineering staff employed in the Central Public Works Department on this account?

**The Honourable Sir Frank Noyce:** (a) and (b). The post of the Financial Assistant to the Chief Engineer was created on the abolition of the late Accounts Office, Central Public Works Department, and is a reversion to the system in force before the creation of that office.

(c) No, the Administrative Officer has a full day's work all the year round and performs also the duties of Estate Officer. No separate allowance is drawn for the performance of these duties.

(d) There is no substance whatsoever in the allegations.

(e) Yes.

(f) No.

(g) Does not arise.

#### RETRENCHMENT ON THE BENGAL AND NORTH WESTERN RAILWAY.

164. **Pandit Satyendra Nath Sen:** (a) Are Government unaware that the Court of Inquiry constituted under the Trade Disputes Act, 1920, to investigate certain matters connected with the staff retrenchment on Indian Railways, made certain recommendations for the guidance of the various Railway Administrations in case of future block retrenchments and to recall those discharged in the order in which they were discharged in case there be requirement of men, with a view to avoiding the chances of favouritism and victimisation?

(b) Is it a fact that the Bengal and North Western Railway Administration, after the publication of the said Report, discharged more than 200 men from their Loco. and Carriage Workshops, Gorakhpur, on account of retrenchment, in May, 1932?

(c) Will Government be pleased to state whether it is a fact that:

(i) the methods recommended by the Court were not given effect to;

(ii) Rai Sahib Madhusudan Das, President of the Bengal and North Western Railwaymen's Association, complained in his letter dated the 1st June, 1932, to the Agent of that Railway in resorting to such deprecated methods of victimisation and favouritism by subordinates in power in discharging the majority of the workmen without consideration of their seniority and merit of service rendered by them and in regard to the failure on the part of the Administration to consult the Bengal and North Western Railwaymen's Association before the orders for the retrenchment were given effect to;

(iii) the matter was ultimately referred by the said Association to the Government of India (in the Department of Industries and Labour) in the shape of an application praying for the appointment of a tribunal under the Trade Disputes Act to enquire into the failure on the part of the Bengal and North-Western Railway Administration to carry out the recommendations of the Court of Inquiry, stating the whole case and forwarding copy of the correspondence that passed between the President of the Association and the Agent of the Railway;

(iv) in the meantime the matter was referred by the General Secretary of the All-India Railwaymen's Federation to the Agent, who, in reply, said that those discharged could not be reinstated? If so, what are the reason or reasons for his refusal to their reinstatement, contrary to the recommendation of the Court;



- (v) the Government's reply to the prayer referred to in part (c) (iii) was to the effect that the Governor General in Council after careful consideration of the application has decided that the circumstances do not warrant the appointment of a Court or Board?
- (d) If the facts set forth in parts (a), (b) and (c), (i), (iii), (iv) and (v) are correct, will Government be pleased to say:
- (i) why the tribunal was not appointed; and
  - (ii) why the Railway authorities failed to comply with the recommendations?

**The Honourable Sir Frank Noyce:** (a) No.

- (b) Yes.
- (c) (i) and (iv). Government have no information.
- (ii), (iii) and (v). Yes.
- (d) (i). For the reason given in part (c) (v) of the question.
- (ii) In view of the answer to part (c) (i), this hardly arises, and I am not in possession of the reasons for any action the administration may have taken.

#### LEASE OF THE TIRHUT STATE RAILWAY.

165. **Pandit Satyendra Nath Sen:** (a) Is it not a fact that according to the terms of the lease between the State on one hand and the Bengal and North Western Railway on the other, the Tirhut State Railway had to be run by the former till the end of year 1912?

(b) Is it not a fact that subsequently the terms of the lease in this respect were extended by the Government to have force till the end of 1932?

(c) If so, will Government be pleased to quote the authority under which the aforementioned terms were notified?

**Mr. P. R. Rau:** (a) No.

(b) and (c). The original contract of 1890 for the working of the Tirhut State Railway by the Bengal and North Western Railway Company was terminable at the end of 1904. A revised contract was entered into with the Company in 1905 under which the term of the contract was extended to the end of 1932, subject to the proviso that the Secretary of State would have the option to determine it at the end of 1919. This option was not exercised by the Secretary of State.

#### LEASE OF THE BENGAL AND NORTH WESTERN RAILWAY.

166. **Pandit Satyendra Nath Sen:** (a) Is it a fact:

- (i) that one of the terms of the lease between the State on the one hand and the Bengal and North Western Railway Company on the other was to the effect that the State should be entitled to the half surplus profits of the Railway over 5 per cent.;
- (ii) that subsequently the State gave up its right to the said surplus profit;

(iii) that the purchase price of this Railway would have been twenty-five times the average yearly net earnings of the Railway during the five years immediately preceding the 31st December, 1932, had the Railway been purchased by the State then?

(b) Are Government aware that there are numerous grievances of the public against the Administration of this Railway and the conditions of service of its employees are unsatisfactory?

(c) If so, will Government be pleased to state:

(i) what made them to waive their right to the half of the surplus profit of the Railway; and

(ii) why the purchase price of the Railway has been increased?

**Mr. P. R. Rau:** (a) (i) and (ii). In regard to the Company's Railway, under the original contract of 1882, any surplus over 6 per cent. was to be equally divided between the Government and the Company, but this provision was rescinded by the contract of 1886, which leaves the profits entirely in the hands of the Company.

In regard to the Tirhut State Railway, up to 31st December, 1932, the surplus profits up to Rs. 10 lakhs were divisible between the Government and the Company in the proportion of 4/5ths and 1/5th, and profits in excess of that sum in the proportion of 14/15ths and 1/15th. With effect from 1st January, 1933, these proportions have been revised, and the first 10 lakhs of profits are now divisible between Government and the Company in the proportion of 9/10ths and 1/10th, and excess profits, if any, in the proportion of 29/30ths and 1/30th.

(iii) No. The average yearly net earnings, on which the purchase price payable at the end of 1932 was to be based, were the net earnings of the main line and its branches for the five years to end of 1912. In addition, a sum equal to the capital expenditure on the Doab lines, and the amount of capital expenditure on the Company's railway after 31st December, 1912, in excess of a certain fixed sum, were also payable.

(b) No such grievances have of late been brought to the notice of Government and they have no reason to believe that the conditions of service of its employees are unsatisfactory.

(c) (i). The concession was agreed to in 1883 in view of the then policy of Government to afford every possible encouragement to private capitalist undertaking the financing of railway construction in India.

(ii) Government are unable to understand how it can be said that the purchase price has been allowed to increase.

#### VICTIMIZATION OF THE MEMBERS AND OFFICE-BEARERS OF THE BENGAL AND NORTH WESTERN RAILWAYMEN'S ASSOCIATION.

167. **Pandit Satyendra Nath Sen:** (a) Are Government aware of the following facts:

(i) that the Registrar of the Trade Unions, United Provinces, issued a circular to the trade unions in those provinces proposing, according to certain recommendations of the Labour Commission, that the unions' leaders should endeavour to give as many members as possible some share in the working of the unions and that the trade union organisers should

endeavour to find suitable men within the unions to act as officials and should train them in the work of the unions, commencing the training before the selected men leave their employment, and they should be assisted to improve their general education, proposing further, that the trade unions should submit to the Registrar, a half yearly return in regard to the progress made in these respects;

- (ii) that the Bengal and North Western Railwaymen's Association at first agreed to do according to the said proposals;
- (iii) that previous to this the Registrar had elicited opinions of the trade unions in regard to the revision of the Trade Unions Act to the extent that two-thirds, instead of half the officers of unions, should be employees of the industry concerned;
- (iv) that the Bengal and North Western Railwaymen's Association agreed to the proposed revision; and
- (v) that subsequently the said Association did not submit the required return, but wrote a letter to the Registrar complaining that the members of the Association were victimised and terrorised to such an extent that none of the Bengal and North Western Railway employees dare take any active part in the activities of the Association, stating its inability to give effect to the proposals referred to in part (i) under the forced circumstances stated by it, unless Government were pleased to give effect to the other recommendations of the Commission, and asking for the withdrawal of its letter agreeing with the amendment of the Trade Unions Act with a view to submitting a fresh suggestion that cent. per cent. officers of the unions should be non-officials or non-employees of the industries concerned?

(b) If so, what action has been taken by the Registrar or by Government on the letter referred to above, and has the withdrawal asked for been allowed?

**The Honourable Sir Frank Noyce:** (a) No.

(b) Does not arise.

#### DUTIES OF GOVERNMENT INSPECTORS OF RAILWAYS.

**168. Pandit Satyendra Nath Sen:** Will Government be pleased to state the following:

- (a) what are the duties of Government Inspectors of Railways;
- (b) whether they inspect the Railways under their jurisdiction;
- (c) if the reply to part (b) be in affirmative, will Government be pleased to say how many times a year and what things they specially make their point to see;
- (d) whether they are responsible to see that the adequate number of staff are maintained by the Railways and that they are not overworked to ensure the safety of passengers and goods carried by the Railways;
- (e) if so, what are their ways and means to satisfy themselves that the sufficient number of staff are maintained and that they are not overworked;

- (f) when was the Bengal and North Western Railway last inspected by the Government Inspector of Railways;
- (g) whether endeavours were made by him to see that sufficient staff are maintained by that Railway;
- (h) whether any mention is made in his report to that effect;
- (i) whether there is any evidence with the Railway Board or with the Government Inspector that the Bengal and North Western Railway is under-staffed?

**Mr. P. R. Rau:** (a) I would refer my Honourable friend to section 4 of the Indian Railways Act, 1890.

(b) Yes.

(c) Up to the end of the year 1930-31, the Government Inspectors of Railways were required to make one complete annual inspection of railways under their jurisdiction. But in June, 1931, Government decided in view of the urgent need for economy in working expenses that annual inspections need only be carried out on main lines, that is lines carrying fast and/or heavy traffic and that on secondary and branch lines not falling within the previous category, inspections need be carried out only once in two years except where, for special reasons, the Government Inspector may wish to inspect them annually. Subsequently in March, 1932, Government decided to reduce the number of inspection circles as an experimental measure, with a view to effecting further economies, and as the jurisdiction of the Inspectors had consequently to be considerably increased, Government have modified the duties of Government Inspectors and have issued orders that as a temporary measure it will be sufficient if main and secondary lines are inspected to the extent of 25 to 30 per cent. per annum and small independent lines to the extent of 75 per cent. per annum. The intention of the periodical inspections is to ensure the maintenance of a proper standard of efficiency and the safety and comfort of the travelling public.

(d) No.

(e) Does not arise.

(f) July, 1932.

(g) and (h). It was not part of his duties to investigate the number of staff maintained by that Railway, and consequently his report does not deal with it.

(i) Government have no reason to believe that the Bengal and North Western Railway is under-staffed.

#### COTTON OR WOOLLEN MILLS PATRONIZED BY GOVERNMENT.

**169. Pandit Satyendra Nath Sen:** Will Government be pleased to state:

- (a) whether any of the cotton or woollen mills belong to or are patronized by Government;
- (b) if so, which and in what respect is any patronized;
- (c) what is the strength of the labour employed by each of such mills;
- (d) what has been the net profit of each of such mills during the last three years?

**The Honourable Sir Frank Noyce:** No cotton or woollen mills are owned by the Government of India. Purchases of the products of Indian cotton and woollen mills are made by the Indian Stores Department and this is the only form in which patronage is extended by the Government of India. Contracts are published weekly in *the Indian Trade Journal* to which I would refer the Honourable Member: but as in many cases the mills supplying the goods do not contract directly with Government, no complete list of mills participating in Government orders is available. For this reason and because no record is maintained of the labour force or profits of mills receiving contracts, it is not possible to give the information asked for in parts (c) and (d) of the question.

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### STATEMENT OF BUSINESS.

**The Honourable Sir Brojendra Mitter** (Leader of the House): Mr. President, with your permission, I wish to make a statement regarding Government business next week. The programme of legislative business still remaining is very heavy, and Government are anxious to dispose of certain very important Bills before the Assembly adjourns for the Session. For this reason, I must ask you to direct that the House shall sit every day next week except Thursday, 6th April, which is the Id-uz-Zuha.

The Bills which Government are anxious to conclude are the following:

- (1) The Provincial Criminal Law (Supplementing) Bill,
- (2) The Indian Tariff (Ottawa Trade Agreement) Supplementary Amendment Bill,
- (3) The Auxiliary Force (Amendment) Bill,
- (4) The Indian Merchant Shipping (Amendment) Bill (Haj Bill),
- (5) The Indian Income-tax (Amendment) Bill (Foreign Income Bill),
- (6) The Indian Income-tax (Second Amendment) Bill (Omnibus Bill),
- (7) The Murshidabad Estate Administration Bill.

If these Bills are all concluded before the end of the week, Government will proceed with some of the other Bills still pending.

My intention is that, if possible, we should not send any Bills to the Council of State after the end of next week, so that that Chamber shall not be kept sitting over the Easter Holidays. I may now inform Members that in furtherance of this plan, we shall ask you, Mr. President, to sit on the 10th, 11th and 12th April. The work for these days will, if we can so contrive it, consist only of the reference of Bills to Select Committees and other work which will not be passed on to the Council of State. These Bills will include the Indian Medical Council Bill and the Indian Merchant Shipping (Second Amendment) Bill relating to certain International Conventions.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): In accordance with the statement made by the Leader of the House, I shall direct that the House do sit on the 3rd, 4th, 5th, 7th and 8th of April, and, if necessary, also on the 10th, 11th and 12th April.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, with reference to what has fallen from the Leader of the House, I wish to point out that, as originally circularised, the business of the Session was to have been concluded on the 31st of this month. This extension of the Session by twelve days is very disconcerting to the Opposition Benches. Members had made their other engagements and they have now to cancel those engagements: others will be unavoidably absent. Those unable to do are about to leave. Therefore, under these circumstances, I would ask the Leader of the House not to bring forward any controversial measure during the ensuing days. If any matter is urgent, let it be brought forward, but matters controversial may be postponed.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): I take it that it is only a suggestion that the Honourable Member makes to the Leader of the House, and I take it that he is voicing the opinion of the Opposition as a whole.

**Sir Hari Singh Gour**: Yes, Sir.

**An Honourable Member**: The Haj Bill is controversial.

#### STATEMENTS LAID ON THE TABLE.

**The Honourable Sir Harry Haig** (Home Member): Sir, I lay on the table the information promised in reply to part (a) of starred question No. 263 asked by Mr. S. C. Mitra on the 8th February, 1933.

#### PERSONS CONVICTED FOR TERRORIST ACTIVITIES.

\*263.

*Statement showing number of persons convicted for terrorist activities during 1930-32.*

Province.	1930.		1931.		1932.		Total.	
	Male.	Female.	Male.	Female.	Male.	Female.	Male.	Female.
Punjab . . . . .	47	..	32	..	15	..	94	..
Bihar and Orissa . . . . .	4	..	22	..	21	..	47	..
Assam . . . . .	..	..	1	..	..	..	1	..
Delhi . . . . .	..	..	2	..	..	..	2	..
Bengal . . . . .	57	..	76	2	129	2	262	4
Central Provinces . . . . .	..	..	3	..	..	..	3	..
Madras . . . . .	..	..	2	..	2	..	4	..
Ajmer-Merwara . . . . .	..	..	..	..	3	..	3	..
United Provinces . . . . .	4	..	9	..	24	1	37	1
Bombay . . . . .	3	..	12	..	12	..	27	..
North-West Frontier Province . . . . .	..	..	1	..	4	..	5	..
<b>Total</b> . . . . .	<b>115</b>	<b>..</b>	<b>160</b>	<b>2</b>	<b>210</b>	<b>3</b>	<b>485</b>	<b>5</b>

**Mr. P. B. Rau** (Financial Commissioner, Railways): Sir, I lay on the table the information promised in reply to starred questions Nos. 1528 to 1533 asked by Pandit Satyendra Nath Sen on the 5th December, 1932.

#### APPOINTMENT OF APPRENTICES ON THE EAST INDIAN RAILWAY.

\*1528. (a) and (b) I would refer the Honourable Member to my reply to Mr. S. C. Mitra's question No. 20(A) which was laid on the table of the House on the 13th March, 1933.

(c) Appointments are generally made from the Waiting List of *ex*-apprentices but it should be noted that during their 5 years apprenticeship, 4 years are spent in the workshops and only one year in the Technical School. Though the Technical School results are given due consideration, practical qualifications and the apprentices' ability to control labour have also to be taken into account.

#### APPOINTMENT OF APPRENTICES ON THE EAST INDIAN RAILWAY.

\*1529. (a) Yes. The reason for selecting an *ex*-apprentice of 1931, in preference to an *ex*-apprentice of 1930 was that the latter on completion of his apprenticeship was offered a post by the Controller of Inspection, Calcutta Circle, Indian Stores Department, which it is understood he accepted and the *ex*-apprentice selected was the most suitable candidate available, when the vacancy occurred.

(b) Two temporary appointments were required to be filled by men qualified as C. and W. Draftsman. Their work involved the allocation of letters and numbers to standard component parts and fittings to facilitate manufacture and supply and delivery to and from stock in accordance with the standard nomenclature. The apprentices who had completed their training in 1930 were not considered to have the necessary qualifications for the posts and the vacancies were therefore advertised. Two Indian applicants were offered the appointments; one refused and the other accepted. Mr. Gibbons who completed his apprenticeship in January, 1931, was then appointed to the second post as he had exceptional abilities in this particular work.

#### APPOINTMENT OF LILLOOAH APPRENTICES AS ELECTRICIANS AND TRAIN EXAMINERS.

\*1530. (a) The answer to the first part of the question is in the affirmative and to the second part in the negative.

(b) The *ex*-apprentice in question applied for an appointment as Train Examiner and as he had been through a course of training in the Mechanical Workshops and was considered a suitable candidate he was appointed.

(c) The answer is in the negative. A certain number of Mechanical apprentices are now trained specifically for the appointments of Train Examiner and subject to their successful completion of the apprenticeship they will be appointed on the occurrence of vacancies.

#### VACANCIES IN THE GRADE OF TRAIN EXAMINERS, ELECTRICIANS AND ELECTRICAL INSPECTORS ON THE EAST INDIAN RAILWAY FILLED BY *EX*-APPRENTICES OF THE LILLOOAH WORKSHOPS.

\*1531.

	No. of vacancies.
Train Examiners . . . . .	18
Electricians . . . . .	1
Electrical Inspectors . . . . .	1
None of these were filled by the <i>ex</i> -apprentices of Lillooah.	

APPOINTMENT OF *Ex-Apprentices* OF THE LILLOOAH WORKSHOP.

\*1532. (a) The percentage of appointments for permanent and temporary posts, including discharges, since 1929 between Europeans and Anglo-Indians and Indian *ex-apprentices* of Lillooah Workshop works out to 50 per cent. in each case.

(b) Does not arise.

(c) The question is under reference with the Agent.

## APPOINTMENT OF MECHANICAL APPRENTICES OF EAST INDIAN RAILWAY WORKSHOP AT LILLOOAH IN OTHER DEPARTMENTS.

\*1533. (a) Normally Mechanical Apprentices in the Workshops at Lillooah are not allowed to work as apprentices in other Departments.

(b) In 1928 an apprentice after 9 months training in the Train Lighting Shop at Lillooah, was permitted, as a special case, to undergo training in the Electrical Department at Lillooah.

Sir Thomas Ryan (Director General of Posts and Telegraphs): Sir, I lay on the table:

- (i) the information promised in reply to unstarred question No. 54 asked by Mr. M. Maswood Ahmad on the 2nd March, 1933; and
- (ii) the information promised in reply to unstarred questions Nos. 98 and 99 asked by Lala Rameshwar Prasad Bagla on the 13th March, 1933.

## DELAY IN THE DISPOSAL OF APPEALS IN THE PUNJAB POSTAL CIRCLE.

54. (a) The reply to the first part is in the negative. The second part does not arise.

(b) Departmental enquiries in this case were started in September, 1929 and the case was made over to the Police in November, 1929; proceedings in Court commenced on the 18th December, 1929 and finally concluded on the 21st December, 1931. It will, therefore, be seen that the 3 years' delay, to which the Honourable Member refers, was chiefly due to the length of the proceedings in court, for which the Superintendent of Post Offices was not responsible.

As regards the 3 items to which the Honourable Member specifically refers, I may state that:

- (i) Under the Law not more than three cases at a time could be taken to the Court by the Police.
- (ii) The Sub-Postmaster, Sirsa, was to blame and he is being dealt with.
- (iii) The case being a cognisable one the Police were responsible for the prosecution and they did not find any ground for prosecuting the Sub-Postmaster, Sirsa.

## SYSTEM OF PAYMENT FOR TELEGRAPH MESSENGERS.

98. (a) Based on the figures available for the week ending 26th July, 1930, the total amount of monthly earnings under the old *Bhaga* system of task work messengers of the Calcutta Telegraph Office was Rs. 3,778 as against Rs. 2,723 which would have been admissible to them under the correct procedure.



(b) and (c) Government have no information.

(d) and (e) (i) It was reported by the Postmaster-General Bengal, and Assam Circle, in September, 1930, that no papers could be traced either in his office or in the Central Telegraph Office, Calcutta, as to the origin of, or authority for, the *Bhaga* system; nor can orders bearing on the question be found in the Director General's Office.

(ii) This depends upon the nature of the sanctions.

(iii) (1) and (2) No such records are maintained.

(3) In view of the reply given in this House on the 29th March, 1932, to part (b) of Mr. S. C. Mitra's unstarred question No. 275 and also of the reply now given to parts (d) and (e) (i) above, Government do not propose to take any further action to trace the authority, as they are satisfied that after this lapse of time it is not possible to trace the origin of the faulty system.

(f) (i) The service conditions of Task Work messengers before March 1st, 1931, were generally those of other Government employees of similar pay and status. Their task work rates were liable to be fixed from time to time by the Head of the Circle.

(ii) The Governor General in Council, the Director General or the Head of a Circle according to the nature of the case.

(iii) No—because no change has been made in the fundamental conditions of the men's service.

#### SYSTEM OF PAYMENT FOR TELEGRAPH MESSENGERS.

99. (a) The procedure for the delivery of press messages is generally the same as that for other telegrams.

(b) The system of charging at triple rates for certain classes of telegrams is not peculiar to the Calcutta Telegraph Office, but is followed in all telegraph offices in compliance with the orders of Government issued on the subject. No enquiry into its origin is therefore necessary.

(c) Government regret that no figures are available.

(d) From figures obtained in July, 1930, it would appear that the loss to a Task Work Messenger of the Calcutta Telegraph Office as a result of the abolition of the unauthorised *Bhaga* system averaged between Rupees four and five per month. More recent figures are not available.

#### PROPOSALS FOR INDIAN CONSTITUTIONAL REFORM—*contd.*

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The House will now resume discussion on the White Paper. Diwan Bahadur Ramaswami Mudaliar.

**Diwan Bahadur A. Ramaswami Mudaliar** (Madras City: Non-Muhammadian Urban): Mr. President, on the day that I received a copy of the White Paper, a journalist friend of mine was with me, and having given me just fifteen minutes to peruse very hurriedly the proposals of the White Paper, he asked me for my impressions thereon. I told him that my first impression was that in a very good measure and to a very considerable extent the Secretary of State had kept his word and played the game and that the proposals, most of them, were embodied according to the recommendations arrived at either unanimously or by a majority or by a considerable section, at the various sessions of the Round Table Conference. On more mature consideration and after very careful study, I do not see that there is any reason why I should depart from the opinion that I formed on the first occasion and gave expression to. The White Paper and its proposals, Sir, have to be examined from two standpoints, and I propose to do so, if time permits, from these two standpoints.

The first test is how far the proposals contained in the White Paper are in consonance with the hopes, the aspirations that were entertained when a great Viceroy, Lord Irwin, made the announcement for the appointment of a Round Table Conference to discuss the future Constitution of the country. The second and, perhaps, a more limited point of view is how far the proposals contained in the White Paper embody agreed decisions arrived at after various sessions of the Round Table Conference. Let me take the latter issue first and try in a very hurried manner to examine the proposals from that point of view and to subject them to that test.

Mr. President, I venture to state that on some fundamental and vital points the proposals of the White Paper make a departure, a very radical, and, if I may say so, an unjustified departure, from the agreements and conclusions arrived at, not indeed unanimously, but even with the consent of the majority of the Members of the Round Table Conference. Let me take that issue which was referred to so pungently by Sir Cowasji Jehangir and which has been described as the black spot of the White Paper recommendations relating to the Services. My friends have already pointed out that there is a very fundamental departure involved in so far as the Security Services will continue to be recruited in the future as in the past by the Secretary of State. The Services Committee of the Round Table Conference distinctly recommended that the right of future recruitment and control shall vest in the Government of India and not in the Secretary of State. I fail to see any justification for this departure, a departure which is calculated to upset the whole scheme of responsible Government both in the Provinces and in the Centre and a departure which no Government, I venture to state, can justify except as a result of appeals and representations made by or on behalf of the Services. I do not want to say anything in my speech which would make any reflection on the Services. Perhaps they are not responsible for these recommendations; perhaps their overzealous advocates in England, who want to take care of them when they can well take care of themselves and do not know wherein lies the good of the Services, may be more responsible than those who are in the Services themselves, for these recommendations. Let me take these recommendations one by one. I have already referred to the recommendation that the Secretary of State will continue to make recruitment to these Security Services and here let me add that there is a curious proposal which was never contemplated, that so far as the Railway Services also are concerned it is possible that the Secretary of State will continue to make recruitment—a thing never contemplated at any of the Round Table Conferences, never suggested by His Majesty's Government, not by the Labour Ministry, not even by the National Ministry, and never put forward by the Secretary of State himself: I suggest that it is most unfair that such a proposal should be included in these recommendations or at any rate that suggestions should be put forward and consultations going on between the Government of India and His Majesty's Government that recruitment to the Superior Services of the Railways should also come in under one of these Security Services.

Let me take the next recommendation :

"The Secretary of State will be required to make rules regulating the number and character of civil posts to be held by persons appointed by the Crown or the Secretary of State."

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We ventured to state that the existing members of the services should be guaranteed all those privileges and emoluments which they are enjoying at present; but these rules carry the matter very much farther. I appeal to every member of the Round Table Conference, be he Hindu, Muslim, Sikh, European or Anglo-Indian, who went from British India and ask him to justify these recommendations. What does this recommendation mean? The Secretary of State will make rules regulating the number and character of the civil posts to be held by persons appointed by the Crown. In the first place, this power is in excess of the power which the Secretary of State possesses today whereby, under section 100 of the Government of India Act, only the Indian Civil Service posts are so dealt with by the Secretary of State. We have now added to this the Indian Police Service also; and what does it mean further? I may point out that this recommendation really follows the Simon Commission Report on the subject. There is a rule, Devolution Rule 12, in the present Government of India Act, a rule framed by the Secretary of State, whereby, with reference to the medical services, it is provided that the Secretary of State shall regulate the number and the character of the posts to be held by officers of the Indian Medical Service. My friend, Mr. Jadhav, who was a Provincial Minister, will tell you what havoc this rule has played with the responsibilities and powers and privileges of Ministers. Under the guise of this rule, the Secretary of State has passed orders which are of a grossly racial and discriminating nature: he has earmarked places for which I. M. S. officers alone are eligible and he has gone further and said that certain places should be filled up only by European members of the I. M. S. Certain posts, such as the Surgeon-General under a Provincial Government, the first Surgeon of the General Hospital, the Superintendent of the foremost Hospital in the Province, the Superintendent of the Maternity Hospital, the Superintendent of the Mental Asylum and all sorts of other offices, the district medical officers of some selected districts—all these have been reserved for the European I. M. S. Now, Sir, the Services Committee recommended that that distinction should be abolished: they were against it; their attention was specifically drawn to Devolution Rule 12 and they said, it was grossly unfair to have this sort of racial discrimination made in the services—they said that this gross racial discrimination should be done away with. So far from accepting the recommendation of the Services Committee, an extension of this pernicious principle is sought to be made by the recommendations which have been suggested. Under the guise of this rule, you are going to provide tomorrow that the membership of the Board of Revenue should be confined not only to the Indian Civil Service, but perhaps to European members of the Civil Service, that the Secretaries to Government should be similarly dealt with, and that a number of other posts also may be filled by European officers. . . . .

**The Honourable Sir Harry Haig** (Home Member): I am afraid I have not quite followed the Honourable Member's argument. On what particular passage in the White Paper does he base these suggestions?

**Diwan Bahadur A. Ramaswami Mudaliar**: I am basing it on paragraph 185 where it is stated that the Secretary of State will be required

to make rules regulating the number and character of civil posts to be held by persons appointed by the Crown, by the Secretary of State in Council or by the Secretary of State, and I am drawing your attention to Devolution Rule 12 in which, under similar terms, the local Government shall employ such number of Indian Medical Service Officers in such appointments and on such terms and conditions as may be prescribed by the Secretary of State in Council. Under a Devolution Rule in identical language, the Secretary of State has claimed the power to earmark particular appointments to European members of the services. I venture to draw the inference that what has been done under Devolution Rule 12 can be done under this rule which is in almost identical language. . . .

**The Honourable Sir Harry Haig:** I think the Honourable Member will find that the wording of this paragraph 185 is drawn, not from Devolution Rule 12, but from one of the existing classification rules, and that the object of it is to ensure that when the Secretary of State recruits a certain number of officers for an All-India Service, it should not be possible for a Local Government to defeat his object by refusing to employ them in the posts for which they have been recruited. I do not think that there is anything more in it than that.

**Diwan Bahadur A. Ramaswami Mudaliar:** I am very thankful for the assurance that the Honourable the Home Member has given and I hope that the Secretary of State will not go behind that assurance.

Let me now come to the next point. The existing service rights are protected—they are given in an appendix. I would specially call your attention to Article 15 of that Appendix wherein the concurrence of the Governor is required for every posting of an officer of the All-India Services. That might have been all right under the present system; but what sort of advance are we contemplating when the posting of an officer of these All-India Services, the Indian Civil Service or the Indian Police Service continues to require the consent of the Governor? How on earth is a Minister going to act? What sort of advice will he have? What sort of heads of Departments will he have to control and what sort of Secretaries will he have to confidentially advise him on matters if, at every stage, the concurrence of the Governor to a posting is required?

Let me come to another point. There are rules by which services recruited on an all-India basis are entitled to retire on proportionate pensions. I could understand that. The Services Committee guaranteed further that men who are now in the services, that is to say, before the commencement of the Act, will continue to have that right. But, under a clause of these rules, it is extended to those who will be hereafter recruited and recruited till an examination takes place after the fifth year by a special Commission. Now, I ask the Honourable the Home Member what justification is there to give this right of retirement on proportionate pension to persons who are recruited after the passing of the Act, who come into the service knowing all the opportunities and all the restrictions that they are going to have under the Act? What justification is there to extend to them for a period of five years thereafter the right of retirement on proportionate pensions?

Let me take another example. The Foreign and Political Department is exclusively under the control of the Viceroy. No question of Indianisation can be raised and no such debate, as has been going on in this House

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initiated by my honoured Leader, can hereafter take place on that question I ask, is that a justifiable extension of the privileges of the services? Take again another recommendation. I ask my Honourable friend, the Finance Member, whether he is content that the pensions to be paid in England are exempt from income-tax hereafter: not that they are liable to income-tax now, but at no time hereafter can this Federal Legislature have the right to levy a tax on those pensions. The Honourable the Finance Member has been, and quite rightly so, very solicitous of the finances of the future Federation, and, if I may refer to another subject, he will also find that the securities in England are exempt from any sort of taxation whatsoever. That is to say, the holders of sterling securities are immune from any sort of taxation. Next week the Honourable the Finance Member will probably bring forward what my Honourable friend, Sir Hari Singh Gour, is contemplating as a most controversial measure—income-tax on some of those who get their money from England. Is the Honourable the Finance Member prepared to justify that for all time to come, under statutory and Parliamentary safeguards, the securities held by the sterling bond holders in England will be immune from taxation?

Then, again, the existing rule-making powers of the Secretary of State will continue to be exercised by him both for existing and future members of the Services recruited by the Secretary of State. Those rule-making powers cannot be divested from him except on an address passed by both the Houses of Parliament. Is it because they fear that some Labour Secretary of State of the future may at some moment or other yield to pressure across the seas and derogate from any of the privileges that are contained in these rules? They have gone further. The Secretary of State is not going to have a Council: he is going to have a body of advisers. The only function that I find is given statutorily to this body of advisers is that where the Secretary of State wants to make any alteration in these rules, the consent of the majority of his advisers is required,—another guarantee again to the services and not merely to those who are in service now and are governing this country but to all future recruits also. Then, again, any person who is holding a post borne on the cadre of the Indian Civil Service may be given such rights as the Secretary of State may decide. I do not understand this provision and I do not see any need for it. What are the rights that the Secretary of State may decide upon? We in the Services Committee suggested that we were perfectly willing to allow every member of the services just now serving in India every guarantee of the continuance of every right that he is enjoying; but to extend it to all and sundry, to extend it to those who will be recruited hereafter, to extend it for all time unalterable, unchangeable, capable of no modification whatsoever by future Secretaries of State is, I venture to think, an extension of the privilege which is an abuse of his powers and a violation of all canons of responsible Self-Government.

Take, again, the question of the Public Service Commission. We suggested that the Governor should appoint the members of the Public Service Commission for the province and the Governor General should appoint members of the Public Service Commission for All-India Services; but no, the Secretary of State comes in. The Governor General cannot be relied upon, this super man who is going to be the Viceroy and Governor General cannot be relied upon, this super man who is going to have 32 discriminatory powers and 45 other powers, this gentleman is not

to be relied upon for appointing members of the Public Service Commission for the All-India Services, and the Great Mughal at Whitehall wants to have the power to appoint members of the Public Service Commission. What justification is there, I ask? When these proposals are considered, one after the other, in their cumulative effect, what wonder that it terrifies even the most moderate people and they are stunned by the almost unlimited powers possessed by the Secretary of State? My friend, Captain Sher Muhammad Khan spoke of the great part that the soldiers took in defending this country. I have never heard a soldier exploit his soldierly qualities and the part he has played in the defence of the country.—I am sorry for my friend. But apart from the soldier, the Civil Service has been largely responsible for building up the British Empire and the Indian Empire, and the Civil Service has so far been the prime mover in the organization of the Indian Empire. If these privileges are to be given, if these prerogatives are to be extended, anomalous in their nature and not justified by any canons of justice and reason whatsoever, if we are not to have the right to say "We shall guard you and give you every possible privilege", if it is to be taken out of our hands and bestowed on a beneficent power ruling at Whitehall, then, I venture to think, that neither we nor the services are going to be the better for it. Bitterness will increase, and in course of time the services who have so far enabled the Empire to be built will be the people about whom it will be said, whenever that chapter of lost dominion comes to be written, if it is written at all "This Dominion was lost, because it was murdered by excessive privileges to the services".

Let me take another aspect of this White Paper. I am racing against time, because I have had more than a hint from you, Sir, as to when I should stop. Let me take the Statutory Railway Board, and let me draw the attention of my Honourable friend, the Commerce Member, to certain facts with reference to it. I am not one of those who are against the Statutory Railway Board. I want it myself. I know that other Constitutions have provided for it. I am not even one of those who feel that it is a crucial question whether the Statutory Railway Board is going to be constituted by a Statute by this House or by a Parliamentary Statute. I do not think that it is the crux of the problem. I know that there are Constitutions which have embodied the Constitution of the Railway Board by Parliamentary Statutes like the South African Act. The crux of the problem is really this. Who appoints the Members of the Railway Board? What powers are going to be given to that Railway Board? Now, Sir, my complaint is that while it is perfectly true that discussions are going on between the Secretary of State and the Government of India, the suggestions contained in this paragraph, those which one can read between the lines create grave apprehensions in the minds of the people. Let me draw the attention of the Honourable the Commerce Member to one or two sentences:

"His Majesty's Government consider that it will be essential that, while the Federal Government and the Legislature will necessarily exercise a general control over railway policy, the actual control of the administration of the State railways in India (including those worked by companies) should be placed by the Constitution Act in the hands of a Statutory Body so composed and with such powers as will ensure that it is in a position to perform its duties upon business principles and without being subject to political interference."

I can understand the Legislature having control only of policy and the Legislature not interfering because of political considerations, but I cannot, for the life of me, understand what is meant by the Federal

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[Diwan Bahadur A. Ramaswami Mudaliar.]

Government merely having control of policy and their not being a party to political influences. Is that sentence to be understood to mean that if the Federal Government controls the Railway Board, that is subjecting the Railway Board to political influences? Is my friend, Sir Joseph Bhore, subjecting Mr. Rau to political influences? What does this sentence mean? I get some clue to it, not indeed in the sense that I should like. At page 61, there is a small phrase squeezed in which might have escaped the attention of Honourable Members. Discussing the question of property vested in the Government, the proposals state that all property in India which, immediately before the date of the establishment of the Federation, was vested in His Majesty for the purposes of the Government of India, etc., shall vest in the Government of India subject to any special provision which may be made in relation to Railways.

The proposal, if I understand it, means that the property in the Railways shall be vested in the Railway Board and not in the Government of India. Is my interpretation correct, Sir? I hope the Honourable the Commerce Member will correct me if I am wrong again. Let me briefly compare it to the South African Act. The Railway Board there was constituted by an Act of Parliament. It is embodied in the course of the Constitution Act when South Africa was given Self-Government, and the very first section says:

"Subject to the authority of the Governor General in Council, the control and management of the railways, ports and harbours of the Union shall be exercised through a Board consisting of not more than three Commissioners who shall be appointed by the Governor General in Council and a Minister of State who shall be Chairman of the Board."

Are these the suggestions that you are thinking of? Are you going to have the future Commerce Member as the Chairman of the Railway Board? Are the appointments going to be made by the Governor General in Council, not indeed in his discretion, but on the advice of the Ministers responsible to this House? If that is so, then whether this House passes measures to have control over the Railway Board or the Parliament takes the trouble to embody in its sections provisions about the Statutory Board is quite immaterial to me, but it is time for you to explain and make the position clear as to what exactly you mean by this.

Now, Sir, I have a complaint to make against the Indian Members of the Executive Council. They are a *purdah* party. They do not tell us what is happening. What are you there for if you are not to take Indian opinion into consultation, before decisions are reached, before you send your despatches, before you commit the whole country to propositions which may or may not meet with the wishes of the majority of the Indian opinion? I have seen during the last few months,—I regret to have to say it,—an aloofness on the part of Indian Members, a reluctance to consult any Members of this House . . . . .

**The Honourable Sir Joseph Bhore** (Member for Commerce and Railways): My Honourable friend has, I think, totally ignored the statement which was made by the Honourable the Finance Member the other day.

**Diwan Bahadur A. Ramaswami Mudaliar:** I am coming to that. I have not ignored it. I have got it very much in mind, in fact, my proposition will be to pass a vote of thanks to the Honourable the Finance Member and to the Honourable the Commerce Member and to those of their way

of thinking who have so far and to that extent retrieved the position; but I do complain, because last time you sent up a memorandum on the Simon Commission Report. My friend was not there, but other Indian Members were in the Executive Council, and they put in a provision. Was it ever thought of? Did the Indian Members express any opinion in favour of it? And the whole trouble has arisen because of that provision, which was allowed to find its way into the proposals. Sir, I do not want to be very harsh. If I have been unjust, I venture to apologise frankly . . . . .

**Mr. K. O. Neogy** (Dacca Division: Non-Muhammadian Rural): Sir, may I point out that all the three Indian Members of the Executive Council were Members of the Government of India at the time, and that they are all signatories to the Government of India Despatch which for the first time initiated this idea of the Statutory Railway Board . . . . .

**Diwan Bahadur A. Ramaswami Mudaliar**: I hope, Mr. President, you will take note of the fact that part of my time is consumed in interruptions.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): If the Honourable Member gives way, he is responsible for the time consumed.

**Diwan Bahadur A. Ramaswami Mudaliar**: Now, Sir, nor is that all. There is a provision here which I have failed to understand, though I have tried to understand it to the best of my ability:

“With such a Statutory Railway Board in existence it would be necessary to preserve such existing rights as the Indian Railway Companies possess under the terms of their contracts to have access to the Secretary of State in regard to disputed points and, if they desire, to proceed to arbitration.”

The Secretary of State again comes in. What are these terms of contract? Are they to be followed? Is the Secretary of State to be the arbiter? Cannot a novatio be entered into whereby the Railway Companies, who depend upon the Government of India, who are controlled by the Government of India and who get every assistance from the Government of India, can substitute the arbitration of the Government of India for that of the Secretary of State? But perhaps I am over-stating the case. You are going to have a Federal Court. What prevents you from making this Federal Court the arbiter in all these disputed points? Why should we go to Whitehall again? Are we to go to the Secretary of State again over the heads even of the present Government of India and enable him to decide across a dinner table as to how a point should be arbitrated upon? It is unfair to the Secretary of State, unfair to the Railway Companies, most grossly unfair to the future responsible Legislature if these powers are continued to be given to the Secretary of State. Now, Sir, that is not the way how you should work your Railways. You want better co-operations in the working of your Railways, and if there is any fear that the Railways may not prove that solid asset which they have been so far, that fear will be legitimate only when you put all these restrictions. A friend of mine said that the proposals relating to Railways reminded one of the Chinese customs which has been taken over as a mortgage, of the German Railways which have been taken over as hypothecation soon after the War. I trust that there is no such thing and I hope that in the Conference, that is going to be held, these questions will be threshed



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out, and I want the support, moral and otherwise, of the Government of India in any representation that any person who is on that Committee on behalf of the non-official side may make—that while we are anxious to preserve all the assets which the Railways represent at present to the Bondholders, we are also equally anxious that the Federal Government should continue to have the power of controlling, not merely the policy, but the administration of the Railways, interpose however you may a Statutory Railway Board.

Let me come to one other small point. The Finance Member is in charge or hopes to be in charge of a Bill to introduce a Reserve Bank. (*An Honourable Member*: “More scramble for seats.”) I am one of those who believe that a Reserve Bank is absolutely necessary for this country. In fact, no advanced country, no civilised country has been able to do without a Reserve Bank. I welcome the provision for a reserve bank, and I agree also that it should not be subject to political influences. In fact, many of the criticisms that have been levelled against the Government with reference to their policy of managing exchange or the issue of note and currency are due to the fact that at the present moment, in consultation with the Imperial Bank, the Government of India perform essentially the functions of a Reserve Bank and, therefore, I am wholeheartedly in favour of the idea that a Reserve Bank should step in so far as to be free from political influences. But there are two vital questions concerned with the Reserve Bank, which I raised at the Round Table Conference and which, I hope, will be discussed—what are the functions of such a Bank, and what is the method by which the governing body will be brought into existence. These are crucial questions. To the extent that it is by State nomination is the Governor to do so “at his discretion”, or, again, on the advice of his Ministers? To what extent is the general body of shareholders going to have a voice in the administration or in the electing of members of the governing body? And what other interests will be in a position to choose any of the Directors of the Reserve Bank? These are the vital questions in which we are interested, and these are the questions on which depends the extent to which public support will be forthcoming, and my Honourable friend, the Finance Member, knows, none better, that without that public support your Reserve Bank can never work satisfactorily at all. It is obvious that the composition of the governing body is of vital importance to the State on the one hand and to the general public on the other. No particular interest, indigenous or foreign, Bombay, Calcutta or Madras, purely industrial or purely agricultural, much less any political party should be allowed to dominate in the administration of the Bank.

Sir, there is one other question which I should like to raise in this connection. I understood at the time that for a Reserve Bank to be brought into existence certain preliminary conditions should be fulfilled, a balanced Budget, reserves to be built up, short term loans avoided, and a trade balance favourable to India restored, but I find a new condition, and, if I am wrong, the Honourable the Finance Member will correct me. The White Paper says that the Reserve Bank should be “already successfully operating” before financial responsibility is transferred. What is the exact meaning of that phrase? We do not wish to be caught by small, simple, unassuming phrases afterwards looming tremendously on the horizon and making it impossible for any advance. What is the meaning

of the phrase, "already successfully operating"? How long will it take before any one can pronounce whether the Reserve Bank is "already successfully operating"? The Finance Member is an expert on that subject. Will he tell this House how many years the Reserve Bank should operate before a judgment can be given that it is "already successfully operating"? It seems to me, under the guise of that phrase, Federation may be indefinitely delayed, and, I for one, if that is the meaning that should be read into that phrase, protest against it. My Honourable friends have spoken of the fact that the previous sanction of the Viceroy to the introduction of a measure for amending the Paper Currency and Coinage Acts is absolutely unnecessary. You have the Reserve Bank operating, and my Honourable friend, the Finance Member, knows that no Finance Member can tinker with the question of exchange without the solid opinion and support of the Reserve Bank and its directorate behind him. Does my Honourable friend think that any non-official Finance Member in his place would be so foolish as to risk the prospects of the exchange and the stabilisation of the currency of the country by putting himself in charge of a Bill which has not got the approval of the Reserve Bank? Can he tell us, even if the Finance Member of the future does introduce a Bill, what alarming consequences will follow? Will exchange tumble down next day? I heard a suggestion like that in London. Even if the Bill is passed, the power of veto is still in the Governor General, so that I really fail to see why his previous sanction has to be sought with reference to this matter.

Let me take you, Mr. President, to some minor matters referred to in this White Paper which, I venture to think, are again not in consonance with the agreements arrived at. Take the question of the administration of British Baluchistan. The Honourable the Home Member was there at one session of the Conference where this question was discussed. Was there any suggestion that the Governor General should take over the administration of British Baluchistan? There were indeed my Muslim friends who had stated that British Baluchistan should have responsibility. Never mind, for reasons of a political nature, you would not do it. But what on earth is the meaning of saying that the Governor General is going to have the administration of British Baluchistan? We thought that all Centrally administered areas would be under the control of the Federal Government, and now my Honourable friend, the Foreign Secretary, comes in and says; "I am quite capable of managing it." I do not doubt your capacity, but I say I am equally capable of managing it myself. At the present moment, we are discussing questions with reference to British Baluchistan. We interpellate with reference to the educational facilities here and all sorts of other things. Is the whole of that going to be removed from the purview of the Legislature and handed over to the Governor General to be administered by him? And there is another question. Why in the name of all that is reasonable, was it changed—this provision that there should be three Counsellors, and not two Counsellors? We understood that there might be two Counsellors. (*An Honourable Member*: "One.") We thought that there should be only one, we went as far as two, and now suddenly like a bolt from the blue comes the provision of three Counsellors. I attach the very greatest importance to that recommendation. We do not want the Governor General to be surrounded by a Council of his own. We do not want another Executive Council sitting in judgment over the Federal Ministry advising the Viceroy with reference to his special responsibilities, making him act, not according

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to his discretion, but according to their discretion. What is behind the proposal for the appointment of three Counsellors? It creates a cabal, if I may say so, in its best sense,—it creates a cabal which may assist the Viceroy, but it will derogate from the powers which have been given to responsible Ministers. I ask, what justification is there for the appointment of three Counsellors. I can understand one in charge of defence, I can understand one in charge of Foreign and Political Affairs, but what is the third Counsellor to do? A fifth wheel in the coach unless he be in charge of those special responsibilities and those extraordinary powers, those emergent powers, those discretionary powers, and all sorts of powers which the Viceroy or the Governor General is going to have. I have no hesitation in saying that this will effectively derogate from the responsibility of Ministers.

Take, again, this very simple provision :

“The Governor General will also be authorised, after consultation with his Ministers, to make in his discretion any rules which he regards as requisite to regulate the disposal of Government business, and the procedure to be observed in its conduct, and for the transmission to himself and to his Counsellors in the Reserved Departments, and to the Financial Adviser, of all such information as he may direct.”

We suggested that the Governor General should not preside at Cabinet meetings, that normally the Prime Minister should preside at these meetings and that the business of the Government should be regulated by rules framed by the Prime Minister. I remember in fact pointing out that for the last fifty years at any rate in Canada which you have visited, in the Cabinet room there is an empty Chair where the Governor General may sit, but no Governor General has been able to come and occupy that seat, not even he who was the last Governor General quite recently. I ask, what is the reason for this provision. The rules of business are to be made by the Governor General and similar provision appears for the provinces also, regulating how the Ministry should discuss things. And, then, what is this provision of papers being sent to the Counsellors? Where is the reciprocal provision that the papers of the Counsellors should be submitted to Ministers? Is it going to be one-sided or have these to be sent to the third Counsellor who will review the acts of the Ministry and advise the Governor General and make him act not at his (the Governor General's) discretion, but at the discretion of the Counsellor? These are the loopholes which show the character of the responsibility that is sought to be given and make people absolutely bewildered as to the nature of that responsibility.

Then, take this provision which has crept in in a most unwarranted way. We said that, so far as the Budget is concerned, the Legislative Assembly should be the only body which should discuss the Budget and vote on it and you bring in a provision that, if any demand is cut down or thrown out, a joint Session of the two Houses may be held so that this demand may be passed in the two Houses. Where in the whole world is there a provision that the Upper House should take part in voting supplies to the Government? Can my Honourable friend, the Finance Member, point out a country in which such a condition prevails and what is the justification for this proposal? When you read the report of the Federal Structure Committee, you will find that the British delegates almost unanimously said that the Lower House and the Lower House alone should have power over the Budget, the one exception was the gentleman who adorns a similar place to your own in another place.

Take, again, this question which I consider is of a vital character. The Secretariat staff of the Governors and the Governor General has been made non-votable. Good Heavens! Whoever contemplated that the future Governors and Governor General would be made of such poor stuff that they cannot even get their Secretariat staff voted by a responsible Legislative Assembly, either Provincial or Federal. What is it that you are doing? You are casting a slur on the dignity of these great officers themselves and what is the reason for thinking that any responsible Legislature would be so lost to all sense of responsibility that they will not even vote for the Secretariat staff of these representatives of the Crown? There is a great danger in overstating your case and over-guarding your needs.

I now come to another vital matter, Mr. President. The Governors shall have special responsibility in respect of the prevention of any grave menace to the peace or tranquillity of a province or any part thereof. Let me say quite candidly that we suggested that the Governor or Governor General should have special responsibility in the event of grave menace to the tranquillity of a province, but what is it that we now contemplate? Look at page 18 of the report:

"The special responsibilities dealt with in this paragraph have been discussed and reported on by the Round Table Conference at its third session. His Majesty's Government propose to deal with it by inserting in the Instrument of Instructions of the Governor a direction that he should bear in mind the close connection between his special responsibility for peace and tranquillity and the internal administration and discipline of the police."

What are you contemplating? The internal administration of the police is to be connected with grave menace to peace and tranquillity and the interference of the Governor is to be sought at every turn. If, as my Honourable friend said, they are asked to wear Khaddar, the Governor can say the discipline and the morale of the force is gone and they should be asked to wear only Buckingham Mill cloth. Sir, that is the surest way to make the police administration impossible by creating deadlocks in the whole administration. I would far rather that the Police were a reserved subject, than that the Governor should interfere in this way and say that four more constables are required for the Delhi city and that otherwise peace and tranquillity will be in danger. We faced this question absolutely squarely. We recognised that there was connection between the police force and peace and tranquillity and here I would call the attention of the Honourable Member to the suggestion made by the Services Sub-Committee at the instance of Lord Zetland and the recommendation of the provincial sub-committee thereon. To that recommendation, the Hindus, the Muslims and the Europeans were all parties. We recommended that the Police Act should not be amended except by the Central Legislature. The Police Act confers certain statutory powers on the Inspector General of Police. We recognised that those statutory powers should be preserved and we thought that it would meet all the necessities of the case if we said that that Act can only be amended by Central legislation. All that has been thrown overboard and now comes this curious provision, not based on the recommendations of the Round Table Conference or the Simon Commission, which is the Bible by which most of us stand, that the internal administration of the police and the discipline of the police are going to be subjects of consideration by the Governor.

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Sir, I have not the time to go into other matters: The first test I suggested was how far the proposals are in conformity with the hopes and aspirations entertained in 1930. But I have witnessed the attitude of sections of Indian delegates at the three sessions and I say that, if those hopes have not been fulfilled, it is in a large measure due to ourselves, our internecine disputes and our incapacity to adjust our differences. On that I would acquit His Majesty's Government of any blame. So far as the safeguards are concerned, it was largely due to our own people who asked for one safeguard after another. When I hear talks of nationalism and communalism in this House, I remember the days when we went through the valley of humiliation in England, because our representatives were not able to come to agreements on various points; and when I hear the word "nationalism" wafted about so inconsequentially in this House, I recall the lines of the poet:

"One word is too often profaned  
For me to profane it:  
One feeling too falsely proclaimed  
For me to proclaim it."

Sir, I have done. (Applause.)

**Mr. Lalchand Navalrai** (Sind: Non-Muhammadan Rural): Sir, the amended Resolution of my Honourable friend, the Leader of the Independent Party, so eloquently and ably moved has my wholehearted support. I have tabled an amendment, but I do not propose to move it as I am advised that the first portion of my amendment is covered by the Resolution itself and that the second, which pertains to the special interest of my constituency, Sind, I can presently discuss. Sir, to put it in a nutshell, my opinion on this White Paper is that the proposals for Indian Constitutional Reform are unsatisfactory and reactionary and do not meet the aspirations of even the moderates in India.

The scheme maintains the bureaucratic spirit of the Government of India intact and is intended to strengthen it by inclusion of the Prince's aristocracy. It does not improve upon to any appreciable extent the present Constitution either at the Centre or in the Provinces, but is, on the contrary, distinctly retrograde and will not be acceptable to India unless the proposals are substantially improved, particularly in respect of:

- (1) the establishment of more real responsibility at the Centre and real autonomy in the Provinces;
- (2) not pursuing the proposal for the separation of Sind and thus condemning unheard, enlightened and cultured minorities—about 27 per cent. of the population in Sind—specially with no weightage for them in the Central and Provincial Legislatures and with no special and adequate safeguards for them; and
- (3) adopting a vicious principle of supporting the new Province with a large subvention out of the Central Revenues, thus making it a burden on the rest of India against the recommendation of the First Round Table Conference and the findings of the Brayne Committee.

Sir, time is the essence of the business here. If I had the time, I would have exposed the faults of this White Paper in its true colours and suggest in detail how to constructively improve upon it, but time is too short and the special interest of my Sind constituency requires me to give it a preference and discuss it forthwith. Therefore, I will first address the House on that point and let me say that everybody knows that Sind is a part of the Bombay Presidency, and has continued to remain so for the last 80 years. Sir, the majority community in Sind is Muhammadan. I lay a great emphasis upon that point, on this ground that I do find that amongst the British people it is considered that Muhammadans are in a minority everywhere in India and it is, therefore, that I see that the question of Sind with regard to Hindus has been dealt with with inequity and injustice. Sir, I would submit that the question of Sind is a question which arose not from the Muhammadans of Sind, but from the all-India Muhammadans in their own interests, for the purpose of keeping Sind as a hostage or a pawn in the game of these politics.

**Maulvi Sayyid Murtuza Saheb Bahadur** (South Madras: Muhammadan): On a point of information, Sir. Is it not a fact that several Hindus of Sind have expressed their willingness to have Sind separated from Bombay? Is that not a fact?

**Mr. Lalchand Navalrai**: Sir, as time is pressing, I shall not give way, but my Honourable friend knows that the Hindus are absolutely unanimous in rejecting what the White Paper says about Sind. (*Voices*: "Question, Question.") As I have already submitted, the question in its present form arose not from the Muhammadans of Sind, and that is reflected fully in the first report, I mean the report of the sub-committee of the Simon Commission which sat in Bombay. That committee consisted of local people and they came to the conclusion with one dissentient vote only that Sind could not be administratively, economically and financially separated. Sir, when the question came before the all-India Muhammadans, then only was it decided in this manner, and the Central Committee of the Simon Commission said: I am reading page 26 of the Central Simon Committee's Report:

"Some of us are of opinion that the financial question is at present a definite bar to the creation of a separate province of Sind. The majority of us, however, are of opinion that if the people of Sind are prepared to face the financial burden and the other disadvantages which would seem likely to result from the constitution of a separate province, their wishes in the matter should be complied with. We accordingly recommend that Sind should be separated from the Bombay Presidency."

Sir, after this, sat the First Round Table Conference and this question was heard one-sided. There, in answer to a question by Sir Phiroze Sethna, it was said to the effect: "All I want to point out is that we are all for the separation of Sind, but Sind must stand on its own legs."

Sir Shah Nawaz Bhuto, who is the leader of the Sind Muhammadans, said rather discreetly: "That is right." Then Sir Phiroze Sethna asked: "Then, if not, what is the recommendation of this Sub-Committee? We must not be vague on that point." The reply came from the Chairman, Earl Russell, and it was: "I may tell you, in view of the last word, Mr. Jinnah accepted the recommendation of the sub-committee which is:

'The recommendation of this sub-committee is that if Sind cannot show that it can stand successfully on its own legs, the separation does not take place.'

[Mr. Lalchand Navalrai.]

Sir, nothing can be clearer than this, an expert Committee was appointed to find out if Sind could have its own finances. What that committee said is this:

"On the day Sind will be separated, there will be a deficit of 110-42 lakhs, which unless the Lloyd Barrage comes to the rescue will grow to 144-19 lakhs in 1962-63."

With regard to the question of the yield from the Lloyd Barrage, the Committee said at page 26:

"The ultimate net profit which can be anticipated from the scheme 30 years after its completion is thus only 24 lakhs."

Therefore, Sir, there was absolutely no justification for turning round again at the Second Round Table Conference and forming a different formula. The Prime Minister said:

"His Majesty's Government also accept in principle the proposition which was endorsed at the last Conference that Sind should be constituted a separate province if satisfactory means of financing it can be found. We, therefore, intend to ask the Government of India to arrange for a conference with the representatives of Sind for the purpose of trying to overcome the difficulties disclosed by the report of the Expert Financial investigation which has just been completed."

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Now, this is an addition which is a contradiction of the previous verdict about Sind standing on its own legs:

Sir, what justice was there for overcoming the difficulties, I ask?

Thereafter the Conference of the representatives, called the Brayne Committee, summed up their position in a few words. It said:

"At the outset and for some years to come, Sind will require assistance to the full extent of Rs. 80 lakhs if a separate province is constituted."

That Committee said:

"We are not concerned with finding out how that Rs. 80 lakhs could be found out to carry on Sind."

Then, Sir, comes this White Paper—quite Black for Sind. It proposes in effect, "we will go with a begging bowl in our hands and ask the other provinces to give Rs. 80 lakhs to Sind every year". That is what this White Paper contemplates. May I not, therefore, say that this is absolutely unjust? It is a point that needs fuller reconsideration and revision. This subvention is nothing less than a vicious way for separating Sind in the interests of those only who ask that price for other doings. Soon shall they be disillusioned, Sir, to find that there will be no progression of Sind at all, but a culmination into retrogression for themselves. Sir, proceeding further I would submit that this White Paper has treated the Sind minorities with gross injustice. Coming to the question of the safeguards and the weightage, Sind occupies a peculiar delicate position. Sir, you know that there are atrocities that are going on there, that there are dacoities that are being perpetrated there, that there are communal riots rampant there: and if the minority community—my constituency—which consists of not only Hindus, but Indian Christians, Parsis and others, are not given sufficient safeguards and adequate protection, it will be sheer injustice and against all British principles.

Then, with regard to the weightage for the Sind minorities, let us go to this White Paper, by way of an illustration. Sir, it is known full well that the population of Sind is 3·9 millions. That means about 39 lakhs. Sir, out of this, the population of the minorities is about 27 per cent. and the others are 73 per cent. I find from page 76 of the White Paper that for the Federal Assembly and for the Council of State five seats are allotted to Sind and, as the minority communities are 27 per cent., at least they should be given two seats. But what do we find? We find that out of these five seats, only one is given to my minority constituency, three to Muhammadans and one to Europeans. Sir, Europeans in Sind are a negligible minority and yet they get one seat out of these five. Therefore, I submit that on the question of the weightage also injustice will be done to Sind minorities if only one seat is given to them.

Then, I come to the safeguards. I submit that they are absolutely necessary in the special interests of the minorities. Sir, the profession of the Government has always been that they are the protectors of the minorities. Therefore, in the interests of the minority communities of Sind, it is necessary that sufficient safeguards should be given if Sind becomes so unfortunate as to be separated from Bombay. With regard to these safeguards, I may say that good sense after all prevailed at least among the saner peoples of Sind itself of both the majorities and the minorities. They met at a Unity Conference in Allahabad and came to an understanding. Sir, it is but equitable and will be nothing more than bare justice if safeguards of a peculiar nature are given in order to protect the minorities of Sind who are being forced to be separated from Bombay and are thus entitled to special safeguards. Sir, the safeguards, that were set up especially in the interests of the minority communities in Sind, were, first, the joint electorates for Sind. Now, if Sind is going to be separated, there is a special reason for a joint electorate. All the parties, the Hindus, the Muhammadans and others, will then be responsible to a joint electorate and would naturally create a better atmosphere. Then, Sir, this is permissible after the Award is made as it is agreed to by a common consent at Allahabad. I read it in the papers today that the Punjab has after all agreed to a joint electorate on certain grounds. Therefore, I submit, that this is the first condition, and that safeguard should be given to Sind. The second safeguard is that 37 per cent. of seats are to be given to Sind Hindus for the first ten years. The third safeguard is to have equality of franchise for both Hindus and Muslims in rural as well as urban constituencies. In respect of the recruitment to public services, it has been agreed upon that one-third of the appointments on the Public Service Commission should be reserved for Hindus and 60 per cent. of the posts shall be filled by open competition on the basis of merit alone and 40 per cent. reserved for redressing communal inequalities. Then, there is the question of discriminatory legislation which, of course, should not be made in order to put the minority communities in any difficult or invidious position. The Unity Conference came to an arrangement for Sind that there shall be no discriminatory legislation or taxation prejudicial by reason of caste, creed or tribe in acquiring or enjoying rights including the right of owning, purchasing or disposing of land in open market. With regard to the Cabinet, they held that there should be one Hindu at least in the Cabinet and the Hindu Members of the Council should have a statutory right to ask for a minimum of at least one third of the expenditure on education to be incurred for Hindus.



[Mr. Lalchand Navalarai.]

As to the communal riots, I submit that they should be put a stop to. A wise suggestion was made that a compensatory contribution shall, if demanded by one-half of the Members of Hindu or Muslim Members of the Legislature, be levied from the Mussalmans or the Hindus, whoever may be in fault for the loss of life, property and honour. Without these and such other safeguards, I submit, it will be absolutely indiscreet, nay, it will be dangerous, for the minority communities, to separate Sind. Sir, I will now take only a minute or two more to make one or two observations. I do not want that I should be misunderstood. I have nothing more to say upon this White Paper with regard to India. Most of the objections I have already said in a nutshell. For want of time I only wish to add that the Dominion Status which is the demand of the people has not been given by this White Paper. Even our enemies, the Birkenheads, Churchills and the O'Dwyers, would endorse this. Even with regard to the responsible Government which His Majesty declared that we would get is not reflected in the White Paper. We have hitherto been given only two small instalments of it and the progress is so slow that the White Paper is not acceptable to the country, yet what I read in the papers is that Mr. Churchill has the hardihood to say that the proposals in the White Paper are tantamount to giving India to Gandhi. This is only a political device. On the other hand, we know that there are also certain friends of India in England who have given their opinion most honestly and fearlessly. One of them, Mr. Maxton, said as follows in the House of Commons:

"If there was one country where advance was less than it was 150 years ago, it was India and we should leave India to work out her own salvation. My opponents might describe it as cut and run policy suggesting cowardice and shirking of responsibility. We describe it as giving human beings to whom resources of civilised world were open, the responsibility of living their own lives and conducting their own affairs."

With these observations, Sir, I bring my remarks to a close.

**Seth Liladhar Chaudhury** (Central Provinces Hindi Divisions: Non-Muhammadian): \*Sir, it is evident that we do not get by the White Paper Swaraj or anything like it. Instead of the sweets (of Dominion Status) that were promised, brickbats (of reservations and safeguards) are hurled at us. The close fisted miser who is always ready with a flat refusal is more honourable than the so-called pseudo-benevolent. If it is not intended to offer the substance of Swaraj, why don't the Government say so? No body is going to pull out their tongue if they finish the game by telling a plain "N-O, No.". In my opinion, the White Paper is not worth its white paper content even and should be returned to its authors smeared with honey who may please themselves by licking at it.

**Mr. H. P. Mody** (Bombay Millowners' Association: Indian Commerce): Mr. President, I do not think this House has been called upon to deal at any time with issues which are more momentous, and Honourable Members who have taken part in the debate have shown themselves conscious of that fact by the tone and temper of their criticisms. I recognise, as everyone else must, that this is no occasion for rhetoric, no occasion for rancour. At the same time, I must say that this is also no occasion for diplomacy and we would be altogether failing in the duty which we owe to ourselves and to the country if we fail to give expression very fully and

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\* Translation of the original speech delivered in the vernacular.

frankly, but, at the same time, with the most scrupulous fairness to our reactions to the White Paper. Sir, I do not wish to go into details; I want to deal with the picture as a whole, and the test that I would like to apply to the White Paper is somewhat different from that which was applied just now by Diwan Bahadur Ramaswami Mudaliar. I would ask three questions and by the answer to these questions I would judge the constitutional proposals before us.

I would ask in the first place: To what extent does the Constitution provide for the elimination or weakening of the control of the Secretary of State? (*U Kyaw Myint*: "None.") What is the measure of the responsibility transferred to the representatives of the people? (*U Kyaw Myint*: "None.") And, lastly, what hopes does the Constitution hold out with regard to the moral and material progress of the country? (*U Kyaw Myint*: "None.")

Now, Sir, as regards the elimination of the control of the Secretary of State, let me say that I regard it as highly anomalous that the governance of a vast country should be carried on at a distance of 5,000 miles,—at the end of a wire, or wireless, as my friend, Dr. DeSouza, says. I regard that as highly anomalous and those who have followed the inner workings of the Government during the last few years are beginning to recognise the danger of the situation, the danger to good government and to progress involved in the interference of the Secretary of State with the day to day administration of this country. Sir, to what extent is this done away with by the proposals which are outlined in the White Paper? There are a number of safeguards provided in the Constitution. The Governor General and the Governors are armed with wide powers of intervention; they are armed with special responsibilities, with discretionary powers, with Ordinance making powers and the like; and one of the main objections to the granting of these wide and autocratic powers to the Governor General and the Governors is that to the extent that these powers reside in them, they will be exercised by the Secretary of State. I draw the attention of the House very pointedly to it for the reason that this aspect of the case has not yet been touched upon, and that one of the fundamental conditions of good government has not been secured in the White Paper, and that is, the reduction or the elimination of the control of the Secretary of State in the day to day administration of this country.

Coming to the second of my tests, I want to know what is the measure of responsibility transferred to the representatives of the people. And there, Sir, I shall merely refer to the various powers which are reserved to the Governor General and the Governors. Certain Departments, and very important Departments of Government, are left entirely as reserved Departments to the Governor General. I agree with my Honourable friend, Sir Cowasji Jehangir, that we did not think that those Departments would be transferred to our control during the transition period. I concede that; I am merely drawing attention to the fact that there are important Departments of Government which are absolutely reserved to the Governor General. On the top of that, he has got special responsibilities which embrace a large variety of functions; then there are additional powers with regard to legislation, with regard to the arresting, initiation and the vetoing of legislation. There are, again, powers with regard to the making of Ordinances, powers for the initiation of currency legislation in this House, and, finally, powers over the services and over railway administration. Sir if you take into consideration what enormous powers are sought to be

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reserved in one way or another in the hands of the Governor General, then I think you will easily realise that what is left to the responsibility of the Ministers is of a very attenuated character.

I shall refer in passing to the position of the services. My Honourable friend, Sir Cowasji Jehangir, drew pointed attention to the way in which the services are sought to be removed from the control of either the Legislature or the Ministers, and the point was very ably developed by my Honourable friend, Diwan Bahadur Mudaliar, this morning. I would only like to draw the attention of the House to what the Chairman of the Services Sub-Committee said on this question. It is to be found at page 83 of the report of the special Sub-Committee on services, of which I had the privilege of being a member:

"My view would be this, subject to one consideration and one consideration only, that the recruiting authority and the controlling authority must obviously be the same. I should like the recruiting authority and the controlling authority to be the Government of India, functioning through a Public Services Commission in whom everybody would have the utmost confidence."

In defiance of this opinion, and of that of the majority of the Sub-Committee, it is now sought to take away the control of the Ministers over the Services.

In another important Department, also, namely, that of Railway Administration, the control of the Minister in charge is sought to be taken away by the device of a Statutory Railway Board, and I would like to know what the precise functions of this Board are going to be. Are large questions connected with railway administration, questions of rates and fares and the like which have a vital bearing on the commerce and industry of the country to be taken away altogether from the purview of this Legislature and the responsible Minister? If so, the establishment of the Statutory railway authority will be resisted to the utmost by public opinion.

I now come to the financial safeguards and, in connection with that, arises the question of the establishment of a Reserve Bank. I was one of the very few people who, at the first Round Table Conference, pressed for the elimination of all control on the part of the Governor General over the Finance Member in the discharge of his responsibility in the matter of the finances of the country; and my point of view was that in view of the exceptional powers which resided in the Governor General, and in view of the fact that as regards the service of debts, payment of pensions and the like, and the guarantees we were prepared to give for the due fulfilment of our obligations and our responsibilities, I said, in view of all this, it was not necessary to provide for any meticulous financial safeguards. In expressing that view, I was in the excellent company of one in whom I think my friends of the Treasury Benches should have the utmost confidence, I mean Sir Bhupendra Nath Mitra. In the Federal Structure Sub-Committee he expounded in great detail his view that there should be no financial safeguards fettering the responsibility of the Minister in charge of the Department, and he gave reasons based on his long experience of government in this country. I should like to ask in this connection why it is that, if an Indian was placed in charge of the Department, he should be held unfit to carry out the responsibilities of that Department. Why should it be found necessary that the way in which he manages his Budget, the way in which he imposes taxation, should be subject to the over-riding authority of the Governor General? Sir, every one recognises the great

services done by the present Finance Member to this country. He has been the one Finance Member who, in my deliberate opinion, has looked at every question from the Indian point of view and has done his best to safeguard the interests of the country. But, Sir, there have been predecessors of our Finance Member, men who have meddled with our currency and with our resources, who have inflicted in the process crores and crores of losses—I refer to Reverse Councils and the 1/6 Ratio as instances—and have left the country. What possible control have we had over those people? We are now going to have one who will not merely have the facile task of criticism from this side of the House, but will have to shoulder the full responsibility of his actions or his omissions; and if he tinkers with the currency, if he tinkers with the finances of this country, his career in this country is finished. That can hardly be said of people who come out to this country for a few years and who disappear after they have handled or mis-handled the finances of the country. I repeat that in view of the exceptional powers which reside in the Governor General and in view also of the statutory guarantees which we are prepared to offer, there should be no financial safeguards of the character adumbrated in the White Paper. In this connection, Sir, comes the question of the establishment of a Reserve Bank. My Honourable friend, Diwan Bahadur Ramaswami Mudaliar, said this morning that he wanted a Reserve Bank; so do we all. The idea of a Reserve Bank has been before the country for pretty well 35 years; I think it was first mentioned before the Fowler Commission by Mr. Alfred de Rothschild. Since then the idea of a Central Bank has been continually before various Commissions and before the Government.

Now, Sir, while we are all agreed that we must have a Reserve Bank which would take in hand the functions which are now dually performed by the Government of India and by the Imperial Bank of India—so far as the control of currency is concerned by the Government, and so far as the control of credit is concerned by the Imperial Bank—while we are agreed that these dual functions could best be discharged by a Central Bank, I want to ask, as my Honourable friend, Diwan Bahadur Mudaliar, has asked, who is to control that Bank? In the discussions which may take place in London on that point I hope we shall approach it with the utmost fairness and without any prepossessions and prejudices. But the point of importance which I like to stress in my place here to day is that it must be ensured that the control of the Reserve Bank is largely in Indian hands. Sir, it may do you good, I venture to submit with great respect, occasionally to be reminded of your utterances. What you said during the discussions on the Reserve Bank Bill was that you did not want the domination of foreign capitalists, you wanted control in hands which were Indian and national (*An Honourable Member*: "In the hands of Bombay.") Bombay may, by its virtual supremacy in these matters, be in control, but I shall not anticipate matters at this stage, otherwise my Honourable friends may oppose the very idea of a Reserve Bank.

The next point is this—what is the object of having on the top of all these safeguards and reservations an addition to the number of Members which was never contemplated at any of the stages of the Round Table Conference? Is the third Member to be a sort of C. I. D. over the Ministers? I can understand the two Members for the Reserve Departments, for Defence and for Foreign Relations. The additional Member suggested in the White Paper would probably be given a roving commission for keeping an eye over the Ministers and the Legislatures. Unless

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the additional Member is to have some such commission given to him, why do you require one more Member than was envisaged at any time during our discussions at the Round Table Conference? I say that the existence of the additional Member will be a grave menace to the proper discharge by the Ministers of their functions.

Sir, if I have time later on, I would like to say a few words about commercial safeguards. At the present stage, I would only say this that at the First Round Table Conference a formula was evolved, a formula in the drafting of which, and in securing the acceptance of which, I took a very active part. The formula evolved was that while we do not stand for any discrimination of any sort or kind, at the same time we wanted that national industries, key industries should be protected and safeguarded in some way. That position, it will interest my European friends to know, was agreed to by Lord Reading and by Sir Hubert Carr, the representative of the European community, at the various Conferences. That formula has been given the go-by and now something else has been evolved. If I have time, I shall show to my friends that if this sort of safeguard is sought to be laid down, it may react against them, and that it may not do them any good. At the same time I wish to assure my British friends that I shall be the last person to ask for discrimination of any sort or kind. My only anxiety is that the key industries of the country should be fully safeguarded.

Now, Sir, the question I would like to ask is, if, in all these various matters which I have briefly touched upon, Ministers' powers are to be strictly circumscribed, what is the position going to be? He will continually have one eye on the Governor General and another eye on the Federal Legislature. In framing any proposals, he will first sit down to consider how far they will be supported by the Governor General, and then how far they will be acceptable to the House, and it may be that if he finds his position becoming untenable *vis-a-vis* the popular section of the Federal Legislature, he will continuously take refuge behind the powers which reside in the Governor General. In this connection, Sir, let me read to you what the Prime Minister said on this question:

"But every care must be taken to prevent conditions arising which will necessitate their use."

He was talking of reservations and safeguards:

"It is for instance, undesirable that Ministers should trust to the special powers of the Governor General as a means of avoiding responsibilities which are properly their own, thus defeating the development of responsible Government by bringing into use powers meant to lie in reserve and in the back-ground. Let there be no mistake about that."

These are the words of the Prime Minister and I say, Sir, that the Minister's position would be rendered absolutely untenable. While on the one hand he will be subservient to the Governor General, on the other hand he will try to play up, whenever he can, to the popular section of the House, and I regard that as an absolutely impossible position. Then, Sir, what will be the position of the Legislature? To what extent will the Legislature be able to control the Minister? When the Minister finds himself in difficulties, he will, as I said, first of all take refuge behind the powers of the Governor General; in the next place he will try and come to an understanding with that section of the House which may be relied upon for taking the most conservative view of things. I can easily

conceive of circumstances arising under which the popular section of the Legislature will be absolutely impotent to deal with the Minister, and where, then, will be the responsibility of the Minister to the Legislature?

I ask, Sir, what is exactly the fear which is responsible for all these safeguards and reservations? Is it to an undiluted democracy that power is going to be effectively transferred, a democracy which may be expected to play tricks with the Constitution, and to discharge its responsibilities in a most irresponsible manner? Is it that consideration which is operating upon the minds of those who are sitting down to frame this Constitution? I cannot imagine how any one can entertain such a fear. Take into consideration the composition of the Legislature. In a House of 375 Members, as many as 125 Members will belong to the Princely Order, or to the nominees of that order. There will be special interests: there will be the interests of landholders and others who may be depended upon to be conservative in their outlook; there will be minorities also which may be depended upon, as I say, to take a most cautious view of any experiment with the Constitution; and, Sir, do not forget in this connection the Upper House which is going to be given concurrent powers in practically every respect. In the composition of that Upper House, out of 260 Members, as many as 100 will belong to the Princely Order. Whenever there is a deadlock, the two Houses will meet together; and, Sir, I make bold to say that the occasions on which the conservative elements in the Federal Legislature will not be able to make themselves felt will be extremely rare.

That brings me to the question of the Federation and the Princes' part in that Federation. I must confess I have been a great sceptic all along with regard to this idea of Federation. I have held the view which I have consistently expressed that I do not think that the conditions were ripe for a fusion of this character between British India and Indian India. But the idea was sprung upon the Conference; and before we had, so to speak, recovered from our surprise, it became a "*fait accompli*", and all that was left to do was to try and see how that idea could fructify. But, in my own justification, I may be allowed to point out that, at the conclusion of the First Round Table Conference, I said in effect: If Federation comes into being—and we are now committed to it—well and good; if it does not come into being, let us have our responsibility at the Centre under all circumstances of the case. Now, what is the position with regard to this ideal of Federation? Apart from any reluctance of the Princes to come into the Federation,—and I can understand their fears and anxieties with regard to bringing their States into the arena of democratic politics—I can understand their legitimate fears in this respect—apart from all that, I fail to see a fair basis for a Federation of this character when I examine the financial aspects of the question. If there is going to be a proper financial adjustment between the rights of British Indian provinces and the rights of States, the States will have to bear a larger burden than they seem now prepared to bear. I say, therefore, that the financial arrangements relating to the Federation are of such a character that in my opinion the Federation will take years to build up. What then is going to be the position in the meantime? I would like to say very plainly that while we cannot possibly go back upon the idea of Federation to which we have definitely committed ourselves at three Round Table Conferences, I for one am not prepared to pay an undue price for the privilege of an alliance with the Princes. (Hear, hear.) If the Princes form an alliance with British India, it will be good for the

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whole of India, provided the conditions of their alliance with us are of a reasonable and fair character. But, Sir, if it is sought to bring about this Federation—to try and secure responsibility at the Centre by this means—at the sacrifice of our vital interests, then, I repeat, I for one am not prepared to pay that price. (Hear, hear.)

Then, another condition is laid down and that is in regard to the establishment of a Reserve Bank; I do not know how those four conditions which have been laid down as conditions precedent to the establishment of such a Bank are going to come about in the near future. We live in a period of the utmost uncertainty, and I do not think that within the next few years at any rate those conditions are likely to be satisfied. What then is to happen to the idea of a Federation? Is the Federation to be hung up, because there is no Reserve Bank properly functioning? Is the Federation to be hung up, if the Princes still want time to make up their minds? If the Federation is to be so hung up, what is to happen to responsibility at the Centre? While I do not charge any single person, I say that our representatives generally did not put sufficient emphasis on this demand for responsibility at the Centre while they were at the Round Table Conference . . . .

**Mr. Gaya Prasad Singh** (Muzaffarpur *cum* Champaran: Non-Muhammadan): They were not our representatives: they were nominees of the Government.

**Mr. H. P. Mody:** It is no use saying that. I will not speak for myself; but there are many men who can claim to be representatives of the people even though they were not elected by any method of popular election.

Then, there is another important question which I would like to deal with for a moment and that is, to answer the point that has been made by several speakers, and that is this: "why are you so afraid of safeguards? After all, these safeguards cannot be brought into being without a conflict between the Legislature and the Ministers or without a conflict between the Legislature and the Governor General, and, therefore, these safeguards are purely illusory". I am not of that opinion. Is the Constitution going to function through breakdowns? Is it to function through clashes between the Ministers and the Legislature and between the Minister and the Governor General and the Governor General and the Legislature? I say, Sir, safeguards are safeguards, and my idea of working a Constitution is not to create crises, to create impossible situations.

I would only say one word more, and that is with regard to the future position. I ask my friends on the Treasury Benches to take a long view of the situation. There are two sections in this country: one, the extreme nationalist section which is powerful, which is vocal, but which is at the moment quiescent, because of circumstances which we need not enter into. Then, there is the other section which, I think, is represented by my Honourable friends here, namely, the section which is anxious to do what it can to work the Constitution. How are you going to make it possible for this section to establish their position in this country? If you provide safeguards, if you do not provide a Constitution which will function smoothly and which will ensure to the people a decisive voice in the management of their own affairs, you render impotent that very class

of people on whom you primarily rely for making the Constitution a success. I ask my Honourable friends on the Government Benches to realise the position, not as it exists today, but as it may exist after a few years, when they may find that all those elements, upon whom they have relied and on which every country relies for a successful functioning of the Constitution, have been swept off their feet, and the field is left entirely to extremists. I strongly urge that these points of view which we have dealt with in the course of this debate be laid before His Majesty's Government and the Secretary of State, and I hope that in the Select Committee, which is going to be set up, they will be duly considered, and a Constitution will be evolved which may endure, cement the bonds between India and Great Britain and contribute to the progress of the world.

**Raja Sir Vasudeva Rajah** (Madras: Landholders): Sir, I do not propose to cover a wide ground in this discussion mainly for the reason that the point of view of my Party will be represented by other Members. I propose to confine myself to certain specific points of importance with special references to the interests I represent. Federation, Central Responsibility and Safeguards are the triple bases on which the Constitution as embodied in the White Paper rests. Those three principles have been universally accepted in India. Even the Congress party accepted them when they made their agreement with Lord Irwin. The only question now for consideration, therefore, is how far these principles are properly balanced in the proposals before us. Whether the Federation is only an eye-wash, whether Central Responsibility is a reality or is blurred by the peculiar character of the Federation on the one hand and the safeguards on the other, is the main issue before us. That the way of Constitutional Progress in India lies through Federation no one can deny. But is the Federation we contemplate and desire the same as that envisaged by the present proposals where the scope of Federation is carefully restricted, where the Legislature is so composite that neither parties nor majorities can ever exist, where the Financial Powers and resources are so curtailed as to enable the Viceroy to put a Federal Government in a Court of Wards even from the beginning. Nor can I imagine that there is much Central Responsibility vouchsafed to the Federal Government when extensive concurrent Legislative Powers, no doubt desirable in cases of emergency, exist in the hands of the Governor General, and the essential services continue to be recruited not to meet the desire or the needs of the Government in India, but at the will and pleasure of the Secretary of State.

Sir, to me it appears that the most crucial problem is not the existence of the Financial Safeguards and the special responsibilities of the Governor General, the justice of both of which I accept, and nobody in India denies, but the extent of control and authority which is vested in the Secretary of State. What all responsible men in India have asked for and urged for a long time is not that Indians should be given full Self-Government all at once, but the centre of authority must remain in India where it would be possible for the Government to understand the needs of the people and the changing necessities, instead of six thousand miles away, concentrated in the hands of a Parliamentary Minister advised by Councillors whose experience is both out of date and based entirely on service traditions. I for one am not a very great believer in democracy, but it is impossible for me as a landholder to believe in absentee authority.



[Raja Sir Vasudeva Rajah.]

Speaking now as the leader of the Landholders' Group in this House, I regret to have to say that the proposals of His Majesty's Government do not take into consideration either the special position or the legitimate claims of the landed aristocracy of India. Sir, it is generally levelled as an accusation against the British Government that in times of crisis and change, they forget their friends and the claims of those who loyally stand by them. I for one have never believed that this could be the case, but, Sir, I ask, what am I to believe when I find that the Government are anxious to hear the views and placate the opinions of all sections in this country except those who, in fair weather and foul, have supported them and who have never refused co-operation or a call for help in times of crisis. In the Provincial Legislatures, although the total number of seats has been increased largely, the number of landholders' seats remains the same. Even in the Central Legislature, the same is the case. This is indeed a grave injustice done to the class which I represent; especially in view of the conditions of the world today when institutions cherished for centuries are crumbling into dust and subversive movements directed against property and authority are the features of social activities. Under these circumstances, is it unjust for the landholders to demand that there should be special safeguards in the Constitution, to secure their interests and that the weight of their counsels in the Legislatures should not be diminished, if it could not be increased? I am not speaking this merely in the interests of the class I represent. Who will deny that the future of India depends on ordered and stable progress, and what section of the community represents better the principle of stability, or have greater traditions of Government and leadership, than the landowning aristocracy of the country? It is all the more extraordinary that these proposals should emanate from a country whose traditions are so fundamentally aristocratic and whose greatness for centuries has been built up by the unselfish activities of the landholders. It is indeed a further irony that the Conservative Party which is the embodiment of the principle of social traditions should be the sponsors of a scheme which deprives the landholders of India of the existing proportion of influence in Legislatures.

Now, Sir, I come to one of the curious characteristics of the proposals placed before the country. The White Paper proposes that the United Provinces, Bengal and Bihar should have bi-cameral Legislatures.

**Sir Cowasji Jehangir** (Bombay City: Non-Muhammadan Urban): I must rise to a point of order, Sir. I do not wish to disturb the Honourable Member, but we must remember that these speeches which are read out so hurriedly in this House will be communicated to the Secretary of State, and if my Honourable friend is expressing opinions of a character which are entirely opposed to the opinions expressed by a majority of my friends here, my friends who will follow him will not be able to contradict him.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): What is the remedy that the Honourable Member is proposing?

**Sir Cowasji Jehangir**: The remedy is that the Honourable Member should make the speech he reads so that every Honourable Member may understand what he is saying. That is the remedy, Mr. President. It is not fair to the other Members of this House that he should rush through

a speech of this sort written out and without our being able to understand what he is saying, and from what little I have been able to make out, my Honourable friend is saying things that might have been contradicted . . .

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. The Honourable Member is raising a serious point which is very unfair to other Honourable Members. He cannot expect every Honourable Member of this House to be a trained and perfect speaker as he is, and every Honourable Member has probably his own defects of speech, and every Member must be allowed to read or speak according to his capacity.

**Sir Cawasji Jehangir**: But he must read it in a manner that every Honourable Member of the House can understand him.

**Raja Sir Vasudeva Rajah**: I can say everything I have read so far in my own words. . . .

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Honourable Member can proceed now.

**Mr. C. C. Biswas** (Calcutta: Non-Muhammadan Urban): We understand him all right.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions: Non-Muhammadan): We also understand him all right.

**Raja Sir Vasudeva Rajah**: Now, Sir, why these three Provinces alone have been so favoured is a matter that is beyond my comprehension. The Central Legislature of India is to be bi-cameral though its powers are carefully restricted, but in the Provinces where effective powers have been transferred and where authority is vested in a wide and mobile electorate, the Government have decided that the Legislatures should be uni-cameral. It is unnecessary for me at this stage to enter into the comparative merits of uni-cameral and bi-cameral Legislatures.

As a distinguished Constitutional writer, Dr. Herman Finer, has recently observed:

"Any discussion of Legislatures in Modern Constitutional States which failed to treat of the nature of the Second Chamber or Upper House would be incomplete. It is everywhere a vital question and, in some States, it is an urgent unsolved problem. For, no lesson of Political History has been more deeply imbibed than that which teaches the uses of a Second Chamber. Uni-cameral Constitutionalism or Government by one Chamber, is a comparatively rare and always temporary phenomenon in the history of the Great States; while bi-cameral Constitutionalism, or Government by two Chambers, is the method characteristic of all important States today."

**Mr. Muhammad Yamin Khan** (Agra Division: Muhammadan Rural): It is Friday, Sir.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): How long will the Honourable Member take?

**Raja Sir Vasudeva Rajah**: I will take two or three minutes more.

[Raja Sir Vasudeva Rajah.]

"The exceptions at the moment are, all States of little Constitutional significance, such as the four new Baltic States, Finland, Esthonia, Latvia and Lithuania; two Balkan States, Jugoslavia and Bulgaria; and Turkey. Experiments in the uni-cameral method have generally been tried during periods of revolutionary reconstruction only to be ended, in the succeeding period of reaction or even while the revolutionary regime persisted, by the re-establishment of the Second Chamber as was in the case of England; for example, during the period of Cromwell's Protectorate."

The desirability of a Second Chamber has ceased to be a matter of argument. As Sir John Marriot has put it:

"The World, by a sober, considered, and unanimous verdict has affirmed its belief in the necessity of a Second Chamber, and uni-cameral experiments have been tried and failed."

I would recommend this passage to the notice of my friend, Sir Abdur Rahim, who spoke the other day against the establishment of Second Chamber in this country.

In the face of the unanimous opinion of the world and of all countries, except Soviet Russia, surely an example not to be copied by India, the Government have decided that the great Provinces of India are to be governed on a uni-cameral basis. And what, Sir, are these Provinces? They are larger in area, much larger in population and more varied in social conditions and proprietary rights than many European countries of first class standing. And in handing over authority to a new and enthusiastic democracy inexperienced in ruling and unappreciative of the difficulties and responsibilities of those not fully represented in their Chamber, there are dangers to which the class I represent are exposed. Has there ever been a case where a deserving community representing as they do the traditions and the ideals of ages and who have a distinct and valuable contribution of their own to make to the common life of the country been so callously abandoned to the vote and suffrage of the masses?

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. The Honourable Member can continue after Lunch. He ought to know that it is Friday today.

The Assembly then adjourned for Lunch till a Quarter Past Two of the Clock.

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The Assembly re-assembled after Lunch at a Quarter Past Two of the Clock, Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) in the Chair.

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**Raja Sir Vasudeva Rajah:** It is no wonder then that the landholders as a class look upon the present proposals with anxiety and alarm and are placed in the position of being without the help of their friends and without the sympathy of their new rulers. In these circumstances, we beg of the Government in the discussions that are to take place in London to reconsider the proposals as they affect the landholders and to establish the Constitution on a basis which will give them an effective voice in the shaping of the destinies of their country and a leading part in the service of their Motherland.

In conclusion, I also urge the necessity of introducing in the section dealing with fundamental rights a provision establishing the neutrality of the Government in religious matters. I desire to see incorporated in it a clause safeguarding to each man the customs and laws of his religion and the tradition on which religious usage is based everywhere. It is a question of vital importance to the conscience of a great majority of the people in this country and they naturally look with suspicion and distrust on proposals which invest the right to legislate on matters of the most profound moral and religious consideration to Assemblies consisting of members of diverse religions.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): I must inform Honourable Members that today I propose to sit till about 6 O'clock.

**Maulvi Muhammad Shafee Daoodi** (Tirhut Division: Muhammadan): Sir, within the short space of fifteen minutes you have been pleased to allot to me, I shall touch only the salient points. We have heard eloquent speeches in this House about the safeguards and limitations with which the future Government is hedged round, and I need not dwell upon them. At the same time I must admit that the White Paper contains more of safeguards than of powers given to the Indian Legislatures. (Hear, hear.) But when I read the contents again and again of the White Paper, what I began to think was as to why so many safeguards had come to be incorporated in it. I began to address myself as to what they were due to. Sir, I should at once say that I do not blame the authors of the safeguards. I begin to think whether we are in any measure responsible for the safeguards. My attention was at once drawn to that memorable Committee of the Unity Conference at Allahabad and the hundred and one safeguards which were demanded by Honourable friends who represented the Hindu community and the Sikh community at that place. Here is the book in my hand containing the texts of the agreements arrived at by the Committee of the Unity Conference at Allahabad. I read them after reading the White Paper and I thought to myself we have got another document of the same nature in our hands. When things like this are flashed into the world and people come to know that Hindus, Muslims and Sikhs, while sitting together in their Conference, were devising safeguards and limitations on the powers of the Legislatures and the Ministers in their respective interests, why should the Government which have got power in their hands part with it in the way in which we like them to part with? We were reminded by Sardar Sant Singh over there of the inscription which he has seen in the Imperial Secretariat Buildings. Quite true, power does not come, and should not come. I should say, to people who are so suspicious of each other. After all, we want powers to exercise them. Over whom? There should be some reasonable ground that the powers are going to be exercised properly and then and then alone can they demand them as of right.

I confess that the safeguards and limitations in this White Paper are much more than what they could have been had there been only one Round Table Conference. At the end of the First Round Table Conference, the conclusions to which the British Government had come were much more in our favour than the conclusions to which they have now

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come after these two subsequent Round Table Conferences. I think, at the Second Round Table Conference, we displayed our weakness to a much greater extent and it is that weakness of ours displayed in London which has brought about this result. I would, however, have kept quiet over what happened, I would have forgotten what was done at that time, but again I find the same thing is being repeated at this critical juncture. I expected after the issue of the White Paper that the attempt of Sir Tej Bahadur Sapru to bring together all sections of thought in order to gather strength to effect radical changes in the proposals of the White Paper would be most welcome to us. I do not know the result of that Conference of Sir Tej Bahadur Sapru at Benares as I am not intimately concerned with that. But what I find in the papers is that our friends here in New Delhi sat together in the Working Committee of the Hindu Mahasabha and the Hindu Members of the Central Legislature and have given us . . . . . (*An Honourable Member*: "And the Muslim League also") . . . . . a series of resolutions in which we find that the discussion has been started as to whether the Communal Award is not pro-Muslim, unjust to the Hindus, and unacceptable because of its partiality towards the Muslims. That is the sort of thing that I find some of our friends sitting in this House, along with the Members of the Hindu Mahasabha Working Committee, are doing . . . . .

[At this stage an Honourable Member (Mr. S. G. Jog) was noticed reading a newspaper.]

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Honourable Member ought not to read newspapers in the House.

**Mr. S. G. Jog** (Berar Representative): This issue pertains to the Maha Sabha proceedings.

**Maulvi Muhammad Shafee Daoodi**: I have got with me a copy of the newspaper wherein it is clearly stated that the Communal Award which forms the basis of the structure of the Constitution is predominantly pro-Muslim, is highly unjust to the Hindus and is unacceptable to them as it provides separate electorates to Muslims at the cost of the Hindus. I do not know what more one would like to say on a subject like this. But, Sir, what is more,—we have got expression of that opinion in this House. Bhai Parma Nand took upon himself to analyse the Communal Award and show to us that it was unjust. My Honourable friend, Mr. Amar Nath Dutt, wanted to raise the question of separate and joint electorates. Again, today, our friend, Mr. Navalrai, is trying to show that the separation of Sind was not quite proper. I ask my Honourable friends, are these things to be discussed now? I would have, however, felt some consolation had I found that my other friends did not concur with them. It appeared to me from their faces at the time that the speeches were being delivered by these gentlemen, that most of my friends on these Benches concurred with them. It is a very difficult situation in which we Mussalmans find ourselves in this country. On the one hand we find that we have got to live with them, and make up our differences with them. We cannot do without them. On the other hand, we see that our friends would not allow us freedom to live in this country, would like to gag our mouth, and would like to choke us.

**Mr. B. V. Jadhav** (Bombay Central Division: Non-Muhammadan Rural): That is not true.

**Maulvi Muhammad Shafee Daoodi**: They go on suggesting plans which would hamper the growth of representative Government in this country. I expected that we would have constructive proposals in this discussion. The time was ripe for it. I am thankful to those Honourable Members of this House who have given us constructive criticism on the White Paper. The opportunity demands it and that alone should have been done. I would again ask my friends on this side to refrain from raking up the old questions if they want peace and harmony in this country.

**Mr. Lalchand Navalrai**: We are only on our defence.

**Maulvi Muhammad Shafee Daoodi**: We should go on devising means as to how we can bring about more harmony between the communities. This is the last opportunity that we have got at our disposal for this purpose. The Simon Commission is over now. The three Round Table Conferences have sat. If we be discussing the questions of separate and joint electorates, the separation of Sind, and so on, we would be cutting at the very root of that harmony.

**Mr. Lalchand Navalrai**: Question.

**Bhai Parma Nand** (Ambala Division: Non-Muhammadan): We can discuss the share of the Muslims in the services.

**Maulvi Muhammad Shafee Daoodi**: I did not like at this stage to refer to my friend, Bhai Parma Nand, but, I would now give him one sentence from an Eastern philosopher. He has given us many extracts from Western philosophers to show what the rights of the minorities are and what the rules and regulations devised by the League of Nations are for the protection of minorities, but my friend forgets that the circumstances of other countries and India are absolutely different. Here the Muslim minority is a minority which, I should say, is the harbinger of equality and fraternity on the Indian soil. It has brought about a state of things in this country in which you can claim that you are fit for democracy. The Muslims in this country had further a political status. They did not come here as traders. They had a political status and, so long as is possible, they would try to maintain an honourable position.

**Bhai Parma Nand**: Does the history of Muslim rule show that?

**Maulvi Muhammad Shafee Daoodi**: If you want again some quotations from the highest authority in India, so far as the Hindu community is concerned, I would give you one. That is the presidential speech at the Belgaum Congress of 1925 by no less a man than Mahatma Gandhi, one of the greatest leaders of India. It was delivered just at the commencement of the experiment of Constitution making. At that time, he had seen what communal conflict means to the future of India and, therefore, he had this relevant and very eloquent passage in his presidential address. He said:

"A common electorate must impartially elect its representatives on the sole ground of merit. Our services must be likewise impartially manned by the most qualified men and women, but till that time comes and communal jealousies or preferences become a thing of the past, minorities, who suspect the motives of the majorities, must be allowed their way. The majorities must set the example of self sacrifice."

**Mr. Lalchand Navalrai:** Hindus are a minority in Sind. Protect them.

**Maulvi Muhammad Shafee Daoodi:** You may rest assured that you will be more protected than we will be protected in other provinces.

**Mr. Lalchand Navalrai:** Let us hope so.

**Maulvi Muhammad Shafee Daoodi:** You are again sidetracking me from my point. Remember the agitation of the Hindus and Sikhs in the Frontier Province.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. The Honourable Member might address the Chair.

**Maulvi Muhammad Shafee Daoodi:** It was the agitation of the Hindus and Sikhs in the Frontier Province in 1925 against the Muslims in that Province that made me resign my seat in the Legislative Assembly, cut off my connection with the Swaraj Party. When, however, for the first time the question of the Hindu and Sikh minorities was put before the Muslims in the Round Table Conference and Dr. Moonje asked for three times representation for the Hindus and Sikhs in that province, without a word of murmur, the late Sir Muhammad Shafi declared that he was willing to give them all that they demanded. Not a word of murmur was uttered by anybody even in this Assembly and, out of a House of 50 in the Frontier Province, they have got 12 seats. Mind you, that was the attitude of the Muslims. Now, take the question of Sind. As to its separation, most of my Hindu friends were more willing than the Muslims themselves.

**Mr. Lalchand Navalrai:** Question.

**Maulvi Muhammad Shafee Daoodi:** They understood at the time what separation meant to them but when it was demanded on the 20th March, 1927, by Muslims a hue and cry was raised throughout the country, and what was the result? The result was that serious communal strife began to take place in Sind. Still, I tell you . . .

**Mr. A. H. Ghuznavi** (Dacca *cum* Mymensingh: Muhammadan Rural): On a point of order. Will you ask the Honourable Member to address you, Sir? This will prevent all these interruptions.

**Maulvi Muhammad Shafee Daoodi:** I would say that the Sind Mussal-mans have not grudged anything to the Hindu minorities in Sind. But, what is the case of the Muslim minority in Orissa? There, the Muslims helped their Hindu brethren to bring about separation of Orissa from Bihar. They have always been trying to do what they can in order that separation might become an accomplished fact. Now that the separation has been accomplished, what have they got? Out of a House of sixty, they have got only four seats; although there is no one else to take any share out of a House of sixty, they have got only four seats: while, out of a House of fifty in the North-West Frontier Province, the Hindus and Sikhs together have got 12 seats. Since they are clamouring for more seats in Orissa, I have approached my friends, Mr. B. Das and others, who have got the upper hand in the matter, but they would treat my request in a manner which is not, if I may say so, befitting . . .

**Mr. B. Das** (Orissa Division: Non-Muhammadan): I told you I would give you the same weightage as in the North-West Frontier Province . . .

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. The Honourable Member is not yielding.

**Maulvi Muhammad Shafee Daoodi:** On the 26th of this month, all parties sat together, except those amongst Muslims who belong to the civil disobedience group, and decided upon certain points which my friends must have read in the papers. Now, those points raised are no less patriotic than my friends of the Hindu Maha Sabha have raised. I can claim that the resolution passed by the Executive Board of the All-India Muslim Conference, in seventeen clauses, are more on the lines of improving the proposals in the White Paper than on the lines of criticizing it in a manner which might simply destroy the very structure of our future political advance. (*Voices:* "Question, question.") I need not repeat here that resolution. I shall simply lay it on the table of the House so that it might be incorporated as part of my speech. Of course this has already been published in the papers:

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"The Executive Board of the All-India Muslim Conference demands radical changes on the following lines:

- (1) The provinces should be granted the largest measure of fiscal, administrative and legislative autonomy.
- (2) The Governors' powers are excessive and should be curtailed.
- (3) The provincial ministers should be fully responsible to the Legislature, and should hold office only as long as they enjoy the confidence of the House.
- (4) The provincial governments should have effective control over imperial and complete control over provincial and other services.
- (5) The powers of the Governor General should be curtailed.
- (6) The High Courts should be an exclusively provincial subject. The appointment of High Court judges should be made by His Majesty on the recommendation of the provincial governors and of the provinces in which the High Courts are situated. The provincial legislature (and not the federal legislature as noted in section 175 of the White Paper) should regulate the power of superintendence exercised by the High Court over the subordinate courts in the province.
- (7) No weightage or other discriminatory privileges should be given to the Indian States.
- (8) Fundamental safeguards for the protection of personal law, education and culture of the Muslims should be incorporated in the constitution.
- (9) Provision should be made for the effective representation of the Muslims in the public services of the country and the army. Effective steps should be taken to indianize the army within a fixed period.
- (10) As the Muslims claim one third representation of the whole house in the Upper House of the Federal Legislature, and have been definitely promised one third of the British Indian share of the seats in the House and cannot see any effective way of securing sufficient seats among the representatives of the states to make up their proportion to one third of the whole House it is their considered opinion that a slightly increased proportion of their seats in the British Indian share over the one third is essential.

The Muslims further disapprove of the principle of joint electorate in the elections to the Upper House of the Federal Legislature, and urge the adoption of separate electorates by direct method.

- (11) A substantial measure of reforms should be immediately introduced in Baluchistan.



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- (12) The population of Delhi and Ajmere being equal, Ajmere should have the same measure of representation in both Houses of the Federal Legislature as Delhi, and such representation should be regulated by the same principle as in Delhi, and when one is represented by a Muslim the other should be represented by a Non-Muslim in the Upper House.
- (14) That inasmuch as His Majesty's Government's decision promised to give Muslims of Behar and Orissa 42 seats out of 175 seats, i.e., 24 per cent. of the whole House by separate electorate, this meeting of the Executive Board demands that the proportion then fixed should on no account be changed and the seats should be so allotted to Muslims in the Province of Behar and Orissa in both the Provincial Legislatures that the total proportion of 24 per cent. should not be disturbed.
- (15) That representation awarded to commerce should include the Muslim Chamber of Commerce of Bengal and Behar as electoral units in their respective Provinces.
- (16) That the electoral qualifications of the landholders' constituency should be reduced in Bengal and Behar and single-seated constituencies should be changed into one multi-seated constituency in each Province by single transferrable vote.
- (17) The Indian states should not be given privileges of competing for All-India services such as the I. C. S., I. M. S., and commissions in the Indian Army until the states agree to extend the same privileges to British Indian subjects in their territories."

I would appeal to my friends not to destroy the structure at which after much labour and travail we have arrived at the present moment, but to try to improve upon it: and that improvement can only come about if we act in the spirit in which the great leader, Sir Tej Bahadur Sapru, is acting. He is trying to bring together all schools of thought for the purpose of gathering strength in order to put pressure upon those who are in authority to yield more and more to the wishes of the people.

**Mr. B. Das:** Has Sir Tej Bahadur Sapru any hold on the country?

**Diwan Bahadur A. Ramaswami Mudaliar:** More than you.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. The Honourable Member (Mr. B. Das) cannot be interrupting like that.

**Mr. B. Das:** Sir, I object to my friend's remarks, "more than you".

**Maulvi Muhammad Shafee Daoodi:** It is time, Sir, that such efforts and endeavours were made so that we may gather the greatest amount of strength for effecting radical and much-needed changes.

Now, I have got to mention one or two special points. One relates to the question of the protection of religion, culture and personal laws. Now, these things are very dear to Mussalmans and they cannot part with them in any circumstance so long as they can hold their own. But I find that the White Paper is blank on that question. Now, Hindus, Mussalmans and Sikhs sat together at Allahabad and discussed this question threadbare and they came to certain conclusions. I now wish to commend a portion

of that agreement to the members of the Joint Select Committee which will sit in London to review this White Paper. That portion is this:

"(1) The personal laws of a community shall not be modified except in response to a desire of the community expressed through its representatives in the Legislature or otherwise and commanding the support of the public opinion of the community concerned.

(2) No change shall be made in the personal law of the Muslims as it is in force in British India except in accordance with Islamic principles;"

and the most important is the third—

"(3) If a Bill is passed which, in the opinion of two-thirds of the Members of a Legislature representing a particular community, affects their religion or social practice based on religion or in the case of fundamental rights of the subjects, if one-third of the Members object, it shall be open to such Members to lodge their objection thereto within the period of one month of the Bill being passed in the House. The President of the House shall forward the same to the Governor General or the Governor, as the case may be, and he shall thereupon suspend the operation of that Bill for one year and shall, upon expiry of that period, remit that Bill for further consideration by such Legislature. When such Bill has been further considered and the Legislature concerned has refused to modify the Bill so as to meet the objections thereto, the Governor General or the Governor, as the case may be, may give or withhold his assent in the exercise of his discretion, provided, further, that the validity of such Bill may be challenged in the Supreme Court by any two members of the denomination affected thereby on the ground that it affects their religion or social practice based on religion or contravenes one of their fundamental rights."

There is one other point as regards the appointment of Kazis for the disposal of cases regarding marriage and divorce among Mussalmans. This question was also discussed at the Unity Conference at Allahabad and I find that the representatives gathered there looked at it very sympathetically. I would commend this also to the consideration of the members of the Joint Select Committee and I would appeal to them to see their way to securing this concession to the Mussalmans of India so that they might feel safe that their religion will not be attacked by the ever-growing reformers in India who, in their zeal to reform their own religion, are going to reform also the religion of Islam which has scope enough to endure so long as there are any human beings in this world.

Lastly, I would ask my friends again that we should not be afraid of the safeguards which are contained in this White Paper. More important thing is to work together so that we may get rid of the safeguards. Now, in my opinion, if there are men to legislate and men to administer in the real sense of justice and fair play, the safeguards will in effect come to nothing. (Ironical Cheers from the Opposition Benches.) The safeguards themselves are not so menacing. So long as we have men of the type we see at present, the safeguards seem to be absolutely essential. The moment, however, the prevailing mentality vanishes, the safeguards also will certainly vanish. At any rate, the Mussalmans would be ready to ask for their abolition all at once, but so long as we find that the majority community cannot use the power entrusted to it in the right spirit, the safeguards will not only be demanded, but, I say, they will be fought for; and the Mussalmans will not allow a single line of them to be dropped. I would, in the end ask my friends to try to create a band of national servants who would look at things fairly and squarely, and not in the spirit which has been displayed by some of us here and which is being displayed outside in the country. Sir, with these words, I resume my seat.

**Mr. N. N. Anklesaria** (Bombay Northern Division: Non-Muhammadian Rural): Sir, ever since the pronouncement of Mr. Montagu in 1917, two problems have been facing the British Government and the Government

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of India in connection with this country—the problem of efficient administration and the problem of satisfying the legitimate political aspirations of the people of this country. The solid common sense and the firm policy of the present Viceroy have gone a great way to solve the first problem and, towards the solution of the second, His Majesty's Government have published the present White Paper.

A Round Tabler the other day argued in the *Roy's Weekly* that the test of the White Paper was not whether its proposals were acceptable or not, but as to how far did they carry out the agreements, the understandings and the intentions of the Round Table Conference. With all respect, I disagree. The test proposed may be of service, if the question before the country was how far our delegates have bungled the interests of India or how far they have been duped at the Round Table Conference. In my opinion, it is idle now for the Round Tablers to proclaim to the country that they never intended this or they never understood that. Again, it would be worse than idle to charge the British Government with a breach of faith for no faith in the sense insinuated was ever plighted by the British Government. So far as I have been able to read and understand the Round Table Conference literature, the British Government have emphasised more than once the fact that the ultimate arbiter in matters like the present is the Parliament of Great Britain. Sir, the British Government delegates at the Round Table Conference ascertained the Indian point of view or, rather, I should say, the point of view of the Indian delegates and now they have published their own proposals to be laid before the Select Committee. The British Government delegates somehow managed to get the Indian delegates to lay their cards on the table without exposing their own. Our delegates have agreed to the main principles of the proposed scheme. They have agreed to the responsibility at the Centre being made conditional on an All-India Federation. They have agreed to the safeguards and they have also agreed to the separate electorates. To all these things they have committed this country so far as it lay in their power to commit us. (*A Voice*: "No.") And it is no use for the Round Tablers now to quarrel over a minor detail here or a major detail there.

Sir, unless we disavow our self-styled representatives at the Round Table Conference, we have no right in justice to complain about the main proposals contained in the White Paper. In my opinion, the test is not the one proposed by the Round Tabler. The main considerations by which the White Paper has got to be judged, in my opinion, are three: Is the scheme workable? Is the scheme in the best interests of this country? And does it fulfil the promises made and the pledges given? In all these three respects the country, with a unanimous voice, has condemned the White Paper and I do not think my poor voice can add anything to the volume of condemnation. ("Hear, hear" from Nationalist Benches.) Sir, the three conditions on which the Central responsibility is to be granted are an All-India Federation, reservations and safeguards and separate electorates as decided upon in the Communal Award which is, of course, incorporated in the White Paper. All these three conditions, I say, ought to be absolutely unacceptable to this country.

Now, Sir, as regards the All-India Federation. If time had permitted me, I would have ventured into an academical discussion as regards the

meaning of this term "Federation" and I would have been justified in taking up the time of this House in such a discussion, because I find that even now a strange misconception exists as regards the meaning and implications of this term in quarters where we would least expect it. You will be surprised to learn that Sir Samuel Hoare, the Secretary of State for India, publicly confessed that scarcely any of the great men who decided upon the fate of India in this connection understood the meaning or the implication of the word Federation. Sir, for five days the Round Table Conference discussed the question whether a Unitary Government or a Federal Constitution was the best Constitution for India, and what do we find in those discussions? I believe, not more than half a dozen speakers made any reference to the whole question. Five days time was spent in mutual admiration, and nothing else. Only one delegate from India—the representative of the Depressed Classes—gave a definite utterance to his misgivings about the whole Federal idea. Sir, as I said in my speech in the first Session of this Assembly, the case of the unitary idea at the Round Table Conference has gone by default. To be brief, I would try to enumerate the implications of the term "Federation" which Sir Samuel Hoare said he did not understand. Sir, Federation will tend to break up the Indian nation into Bengalis, Madrasis, Oriyas, Sindhis, etc. It will tend to divide the country into different provinces and more than a hundred Native States. Sir, it will tend to create and maintain friction and conflict between province and province, between British Indian provinces and Indian States, between the Governor General and his Executive Council, between the Executive Council and the Federal Legislature. Sir, it will tend towards divided allegiance and conflicting laws. It will restrain the all-India nation-building activities of the State. And, lastly, it will mean a weak Central Government unable and incapable of controlling the tyranny of the permanent majorities, either Hindu or Muslim, in the different provinces. Sir, this is not the view of my humble self alone. I can show, by citing numerous authorities, writers on politics of repute and even our own countrymen, in whom, I am quite sure, everybody would trust.

**An Honourable Member:** Don't you trust the delegates?

**Mr. N. N. Anklesaria:** No, Sir, they are bunglers. Sir, Mr. Muthuranga Mudaliar, the Chairman of the Reception Committee of the Indian National Congress in 1927, in his address to the delegates, said as follows:

"Next it is my humble opinion that the Government we should organise for India under Swaraj should be on the unitary basis. Federal Government, however suitable to the conditions of other countries, will be peculiarly inappropriate to India with its revived sense of solidarity. It will also disrupt the synthesising forces of nationalism and present a sad picture of a divided India. If there is local sentiment and local aspiration we can well provide for them by a careful process of decentralisation. Administrative units organised on a linguistic basis with adequate provisions for the needs of localities will amply answer the requirements of local patriotism. At the same time a strong Central Government will keep nationalism intact and elevate India among the nations of the world."

Sir, I would also cite, if time permitted me, the opinion of Sir Sivaswamy Aiyar and I would also refer to the considered opinion of Professor Dicey. Sir, when I was in England in 1904, a question was agitating the mind of the British public regarding some project to hold the British

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Empire together. And along with the scheme propounded by Mr. Joseph Chamberlain there was a scheme propounded of introducing the principle of Federation in the British Empire; and Professor Dicey on that scheme has pronounced the following opinion:

“ The new-fangled belief in federation as applied to the British Empire is at bottom a delusion and a delusion perilous not only to England but to the whole British Empire. ”

Lastly, I would refer the curious to the book of the Honourable Mr. Thomas Brand, South African Union. I cited that in my speech in the first Session of this Assembly and I will say no more about it.

Sir, you may ask, when these great British statesmen, these great Princes and these great Indian delegates approved of these  
3 P.M. ideas of Federation, were they all fools? No, Sir. So far as the British statesmen were concerned, they were very clever, very astute and very able men. Sir, to them, the proposal of an All-India Federation must have come, came as it did come from our own Indian delegates, as a great relief, as a way out of the awkward commitments into which the pronouncements of men like Mr. Montagu and Mr. Benn and other British statesmen had involved the British Government. According to those pronouncements, some responsibility had got to be granted at the Centre. But if the Government block in the Legislature which exists at present can be replaced by a far more servile and obedient Princes' block, the risks and dangers of the innovation would be greatly minimised. Sir, if such was the prospect before the British statesmen, who can say that it was foolish for them to have grasped it? Sir, as regards the Indian Princes, they were no fools, but as subsequent events proved, they were clever by half. They were given to understand and they believed, that if they joined the All-India Federation, their problem of problems, the problem of paramountcy would be solved, and, instead of British India ruling them, they would have a substantial share in ruling British India. Sir, when the Maharaja of Bikaner and the Maharaja of Patiala and the several State representatives reached London, they made speeches advocating in most definite terms an All-India Federation. However, doubts and misgivings appeared immediately after they were told at the Federal Structure Committee that the question of paramountcy was outside the Federal scheme, that their subjection to an indefinite and undefined paramountcy must for ever remain and that in addition to the paramountcy they had to be subject to the new Federal Government and that secession was an impossibility. His Highness the Maharaja of Patiala, on his return to India, frankly acknowledged his mistake and published a most instructive brochure against the whole idea of Federation. His Highness the Maharaja of Bikaner, through the mouth of his Prime Minister, tried to explain away his former utterances by saying that what he meant was not Federation, but confederation, an absolutely different thing, indeed. Sir, at a banquet in Bombay, the doyen of Indian Prime Ministers, Sir Prabhaskar Pattani, publicly stated that in agreeing to the scheme of Federation the Princes had been duped. Sir, I promised to finish my speech within 15 minutes and, as it is already 20 minutes, I take it that there is no further time.

**Some Honourable Members:** Go on.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): When we are hard pressed for time, it is not proper that the Honourable Member should be allowed to make that sort of encouragement.

**Mr. F. E. James** (Madras: European): Sir, the Governor of the United Provinces, in referring to the White Paper yesterday, said that it was a document which in form was severe and, I think, that this House is to be congratulated upon dealing with a document severe in form in a formal and practical manner. I rubbed my eyes two or three times during the speech of my Honourable friend, Mr. Ranga Iyer, and wondered whether the same person was speaking, I wondered how long ago it was that the bearded *sanyasi* wrote "Father India" and other wild pamphlets. He addressed himself to a consideration of the White Paper in terms which were as circumspect as those sometimes used by the Honourable the Home Member.

Now, Sir, I desire to deal practically with a few main points and I will first of all deal with the Governor General's and Governor's powers. My Honourable friend, Mr. Ramaswami Mudaliar, this morning seemed to suggest that these powers were something which were quite unusual and extraordinary. But I want to put forward a view which has not, I think, been appreciated fully by some Honourable Members in the House. If you make a careful examination of the powers which are now given to the Governor General and to Governors together with a similarly careful examination of the present Government of India Act, you will find that a large number of powers are only being transferred from the Secretary of State to the Governor General and to Governors in provinces. These powers divide themselves into four general classes. First of all there are those that are in the Government of India Act and are being continued. Secondly, there are those which are now in the Government of India Act, and are being discontinued; and my Honourable colleagues will be perhaps surprised to learn that any powers whatsoever are being discontinued. But I assure the House that certain powers are being discontinued. Thirdly, there are those which exist at present in the Government of India Act, but which are modified. I have not the time to refer to Honourable Members all these sections. I am giving just the main outlines of these. Fourthly, there are entirely new powers, and it is the consideration of the new powers which are placed in the hands of the Governor General and Governors which perhaps the House should concentrate its attention upon. If you examine these new powers, you will find that they relate to the special responsibilities of the Governors and the Governor General, to Federal and concurrent legislation, to the possibility of suspending the Constitution and assuming the full powers in the case of a general breakdown, and to powers which are incidental to the formation of a Federation involving a Federal Court, accession of States to the Federation, and, later on, possibly a Supreme Court. There is further an important power in regard to the apportionment of the residuary powers. I have said, Sir, that many of these powers are at present vested in the Secretary of State under Parts II and III of the Government of India Act. My friend, Diwan Bahadur Mudaliar, spoke of the objection to a Great Mughal sitting in London. I would suggest that it is better to have a Great Mughal sitting in Delhi than in London. To that extent this transfer of power is a very real transfer.

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Another point, Sir, that I wish to mention is, have these powers in the past, even those which now exist, been frequently resorted to? I would say that generally speaking they have not been frequently resorted to. I am aware, Sir, that in this House certification has from time to time been used in order to pass measures which have been thrown out, not necessarily on their merits, but as a result of political demonstration. But I would remind the House that Sir Samuel Hoare himself has said, and no one can doubt his sincerity that these powers are not intended to obstruct a real transfer of responsibility. They need not water down the responsibilities of the Executive. The very exercise of these powers depends upon the constitutional temperament, Parliamentary gifts, the tact and courage of the Ministers; and they also depend upon the wisdom and sense of the Governor General and the Governors. In fact the wise Governor will be like the executioner in "Alice in Wonderland":

"He was so careful, so careful was he,

That he never used the sword that every one could see!"

It is the intention that these powers should only be used in cases of emergency, and, Sir, I would further say that the exercise of these powers would also depend upon the type of the representatives that the country sends into the Legislatures. Here I have the authority of that learned jurist, Sir Tej Bahadur Sapru, who has said:

"I consider it most necessary that the Legislatures must consist of men who will combine independence with tact, who, while refraining from encroaching upon the special responsibilities of the Governor General, will be equally ready to oppose and resist any encroachment on their powers, privileges and freedom of action."

The second point to which I wish to refer is the question of commercial discrimination which has been touched upon by my friend, Mr. Mody, and also in a previous speech by my friend, Mr. Ranga Iyer. I would remind my friend, Mr. Mody, that although he was not at the Second Round Table Conference, it was at that Conference that a substantial agreement was arrived at in regard to the provisions protecting communities against discrimination. Two particular points which have been mentioned on the floor of the House are these. First of all, that these proposed clauses will not allow India to assist her key and infant industries. Now, Sir, in regard to that I again quote the authority of Sir Tej Bahadur Sapru on this particular point. He says:

"Under clause 124, the legislature can make grants, bounties or subsidies out of public funds for the encouragement of trade and industry and such grants will not be treated as amounting to discrimination. Under that clause, it would seem that it would be permissible to impose conditions on companies regarding the composition of the Board of Directors or facilities to be given for training Indian subjects of His Majesty, if they desire to be eligible for any such grants. I think it is right and proper and imperative that the central and provincial governments should have ample power for the protection and development of the key and infant industries by the grant of subsidies, even though sometimes such action on their part might look like discrimination."

If, therefore, this clause does not operate in that way on the authority of so distinguished a jurist as Sir Tej Bahadur Sapru, I suggest that Mr. Mody's fears are unfounded.

The second point is that in regard to clause 122 of the proposals of the White Paper, it extends to any British subject, which would include those in the Dominions and Colonies, where in fact discrimination may be practised against Indians. On that we have the authority of one of whom I have always regarded it as a privilege to call myself a friend and whom

I have regarded in many matters as my *guru* ever since I came to India—I mean, Mr. Srinivasa Sastri, and he has written: “Is India to be deprived for ever of the power of retaliation?” Here I should like to make it perfectly clear that we as a community sympathise with that point of view. We have stood before with Indians in their fight against discrimination against their nationals in other parts of the world, and we do not claim anything more than those of us who are domiciled in the United Kingdom and who are prepared to give the same rights that we claim for ourselves in this country—we do not claim any more than that we should have that protection. Sir, on broad grounds these safeguards are eventualities which, I hope, will never arise. We feel, in view of past history, they are necessary; but we hope that in the future that will not be necessary if the European community ungrudgingly co-operates with Indians in the task of nation-building, in their attempts at economic reconstruction, in their desire to use the powers which are latent in the new Constitution as fully as possible—then I believe there will be little occasion for the use of these particular provisions. Much, I know, depends on the Indian Ministers of the future; but much also depends upon us and I hope that increasing co-operation will make these powers rust through disuse. There are, I think I may claim, signs here and there of a very definite character that Europeans and Indians engaged in commerce and trade and industry in this country are realising to an increasing extent their identity of interests, and the best safeguard against the invocation of any of these clauses is that. When trust displaces distrust, when co-operation is substituted for jealousy, when aloofness gives way to closer contact between the two communities, then I believe that these safeguards will be unnecessary.

Now, a word about the services. I am sorry that reference has not been made hitherto in this House to the tremendous services which they have rendered in the past, and which, in my mind and in our view, merit special consideration. I think it is generally agreed that their accrued rights should be amply safeguarded. On that there is no question whatsoever. I believe that when people of this country in the future look back upon these days, they will look upon the services as the real builders of the new India. Why? You have only got to look at the Treasury Benches to realise that those men whom we sometimes harass during the day are at night helping to build the new Constitution in such a way as to make it safe for those who will take their place. We must give them their due. I believe the services at the present time are rendering one of the greatest services to India that any particular community has ever rendered; and I think that that should be recognised. But what about the future? As I understand the position of my friends on the other side of the House, their objection is to the proposal to continue for a period of five years the recruitment of the Indian Civil and Police Services in the hands of the Secretary of State. Looked at from the purely theoretical point of view, I admit, there is a great deal to be said for that objection. But what is the practical point of view? What is the thing we are really dealing with? I want to put forward three considerations. First of all, during the period of transition which is the next five years, it is of the utmost importance that there should be no deterioration in the standard of these services. Will you get the same class of men if you do not give the same kind of security which is given to the services today,—the gilt-edged security of the Secretary of State’s recruitment? It is doubtful, and yet, as I have already said, the need for the best men in the services



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was never higher than during the period covered by the transfer of power from Britain to India: and if the morale and standard and service of these officers are to be maintained at the same high level, I suggest that possibly the price is worth paying. In five years, every one hopes that the constitution will be in working order. Then will be the time to consider whether it is proper to make changes, and a stable and well-established Federal Government may then have the necessary authority and credit to take on this particular responsibility. The second consideration is, in practice have any Ministers in the transferred subjects, generally speaking, felt any disadvantage in the fact that their Secretaries have been recruited and appointed by the Secretary of State? I have never heard it said in general terms by any Minister, with whom I have talked, that the services have shown any less enthusiasm for carrying out their policies and purposes, because they owe their recruitment to the Secretary of State. In fact, I believe, experience has been, on the whole, the other way. Theoretical considerations must, therefore, sometimes give way to the more practical considerations and I do hope that those who go to the Select Committee, as representing this House and this country, will look at this particular subject in that way.

The third consideration I would bring to the notice of this House is that in the appointment of Public Services Commissions you have, in a sense, a guarantee against undue interference by the Secretary of State. I believe (if it has not already been established, it is in process of being established), that there is a convention whereby the Secretary of State almost invariably accepts the advice of the Public Services Commission. If that is the case, there can be no fear of any undue interference by the Secretary of State in service matters.

There was one small matter to which I want to make reference, which was referred to by my friend, Sir Cowasji Jehangir, and that was in connection with the proposal in para. 119 of the White Paper, that the prior consent of the Governor General, in his discretion, should be obtained before any legislation affecting the coinage or currency of the Federation or the powers and duties of the Reserve Bank in relation to the management of currency and coinage and exchange were introduced into the Federal Legislature. I had not the privilege of attending the Round Table Conference discussions, but I understand that the two reasons for that provision are: first of all, that it involves certain States who might not be in the Federation, and, secondly, that, in the event of important legislation affecting the currency, the one thing that one is most desirous of avoiding is that in anticipation of such legislation there should be any flight of capital from the country, whether permanent or temporary. I believe that those two considerations weighed with those who put this particular provision in, and I suggest that the Finance Minister of the future may be very glad to have that provision.

I had put down a few notes in connection with the Railway Board which, for lack of time, I must pass over. I merely want to say this. It is proposed by the Constitution Act to create a Statutory Railway Board and to preserve the right of Indian Railway Companies to have access to the Secretary of State in regard to disputed points and, if they so desire, to proceed to arbitration. Now, I can envisage a Board, not like the one which my friend, Sir Cowasji Jehangir, imagined—a partly elected body from this House to sit over the present Board . . . . .

**Sir Cowasji Jehangir:** Not from this House: I did not say from this House.

**Mr. F. E. James:** Then, I am sorry: perhaps I misunderstood my Honourable friend: but the kind of Board that I envisage is a Board somewhat on the lines of the present Board, purely concerned with business management and administrative control. Objection, I know, is taken to this on the ground that this Board should be constituted by this Legislature and not by Parliament under the Constitution Act. Personally, I do not see why, if the Reserve Bank can be constituted by the Legislature, the Railway Board should not be similarly constituted. The ultimate control of general policy must rest with the Federal Legislature, provided the Board, on the lines indicated, were set up with wide powers of administrative control.

And this, Sir, brings me to the Federation. In spite of my friend, Mr. Anklesaria, I still believe that the ideal of a Federated India is the one to strive for and to strive for without ceasing. I admit the difficulties. I think the most powerful arguments against this proposal have been urged by my friend, Sir Abdur Rahim, and yet I believe the spirit with which the subject should be approached is really contained in very striking passages which are included in the Report of the Ministers of Indian States from the Standing Committee of Princes at the last Round Table Conference. They believe that "it is all the more necessary for the States to join the Federation at once at the outset if they want to join at all, rather than wait and higgie for better times". But, Sir, in regard to this matter, there are three considerations which I want to urge upon this House and upon those who will have the settlement of this problem, and I attach some considerable importance to these three points. It is suggested in the White Paper that a place should be found in the Constitution Act for a declaration as to respect due to personal liberty and rights of property, and the eligibility of all for public offices, regardless of difference of caste, religion, etc. It is also suggested that in the Royal Proclamation inaugurating the new Constitution certain other matters of great importance to certain communities in India may be embodied. I hope that if these suggestions are carried out, it may be possible somehow to bring within the scope of these Declarations the subjects, not only of British India, but of the Indian States who accede to the Federation. It is right to afford the fullest protection to the sovereign rights of the rulers; but the rights of their subjects should also be protected in a similar way.

My second consideration is, that I agree with my friend, Mr. Mody, that a word of warning should be uttered in connection with the financial implications of the Federation. It would be manifestly unfair that the financial burden of supporting the Federation should fall only upon the provinces of British India. Promises of immunity from certain Federal taxes may be an inducement to certain States to enter the Federation; and I am quite aware of the difficulties of the pre-Federation debt,—but it may be a heavy price to pay, and the burden of that price will fall upon British India. I hope the States,—I am sure, the greater States—will not be niggard in this matter, and that the British Government will not be too generous with our money.

And the third consideration is this. One of the safeguards asked for by the Princes is that there shall be no discriminatory legislation against any of the Federating States or subjects of such States. That is right

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and proper. But British Indian subjects and European British subjects in India are entitled to look in return to the same protection from the Federating Indian States. My own community, resident in Indian States attaches some importance to this, and we would ask the same consideration for our fellow Indian citizens from British India. Some reciprocity in this matter might appropriately appear in the Instruments of Accession.

I have been told, Sir, that these suggestions would frighten the States. I do not know. My own experience is confined to the three great States in Southern India,—I refer to Mysore, Travancore and Cochin, where the rulers are loved, where they have representative institutions, where the peoples' rights are respected and safeguarded. There is nothing to fear there, and their sane and liberal administration is a model to many another State and Province. I believe their admission to the Federation would bring strength and progress.

Now, Sir, in conclusion, I would like to ask the same questions that my friend, Mr. Anklesaria, asked just now though I am afraid I shall have to give somewhat different replies. He asked three main questions on the White Paper. First of all, does the White Paper register an advance? I claim that it does. Powers are largely transferred from London to Delhi, as a careful examination of the document will show. It is impossible in the short time at my disposal to go through all the proposals, but I would only refer to what I said about the Governor General's powers. I would refer to the grant of responsible Government in the provinces, and I would refer to a section to which nobody has so far referred, I mean section 146. If I understand it aright, it indicates that the Federal Government will in future be able to borrow on their own security in any market where they can get the money at a reasonable price. That is a very valuable and great change, and that is only indicative of what changes are contained in the White Paper if the proposals are studied aright.

Secondly, does it substantially embody the agreed or the majority conclusions at the Round Table Conference? Now, Sir, it is easy to concentrate on those which it does not embody, but if you look at the thing in broad general outline, I think the House will have to accept the view that it does represent the views of the Round Table Conferences in general. And here I would like to pay a tribute to those who went to the Round Table Conferences. It appears to be the custom and fashion in this House to decry their efforts. They undertook great responsibilities. They carried those responsibilities well. I have always felt, and I have done my best in my own community to put forward this view. I have always felt that it is up to the communities in India to support to the fullest extent by constructive co-operation their efforts. It must be remembered that the Round Tablers carried their political life in their hands, and it is on that account that I hope that the path of the co-operators will be made as easy as possible when they go to the Select Committee. Powers of destruction are still dormant, and the next election will be a tremendous test between the will to co-operate and the will to destroy. Therefore, every effort should be made in the Joint Select Committee and in this country to strengthen the hands of those who are treading the path of constructive co-operation.

My final question is this: does the proposed Constitution provide for its own self-development? Sir, I must confess that here there is some disappointment. While in those matters for which the Crown is responsible, there can be no delegation except by Parliament, in other matters, and,—I am speaking only personally now,—it seems to me that there should be means within the Constitution Act itself of developing towards greater freedom and responsibility. It is the view of those whom I represent that we do not want any more interruption of the normal life in this country; we do not want any more Royal Commissions. What we really want is an entity which is capable of organic life within itself. Sir, I believe that the result of these proposals,—I am just concluding, Sir,—whatever the circumstances of their birth, will be to create an immensely important entity which one day will be a factor in world politics. If Indians enter the new Legislatures, use their powers, recognising the special difficulties democracy must face in India, their position will increase in strength, and the safeguarding hand of Britain will gradually cease to guide. There are still important tasks before the Joint Select Committee. Once more there is an opportunity of mobilising the goodwill of Britain and India in the pursuit of one of the greatest tasks the world has ever seen. For, let not this House forget that this task is not simple, I mean the task of reconciling the conflicting claims of Britain and India. I look upon it as of much more vital importance. There is in the Library of this House a book by an old friend of mine called "Asiatic Asia". In that book, there is a Chapter on the changes in British India. The burden of that Chapter is that if you look to the West, you find the countries of the West fighting with one another for an adjustment of their needs and their aims. If you look to the East, you find the two great Eastern countries engaged in a deadly combat in order to try and find some solution of their conflicting claims. But here is something which brings a great Western country and a great Eastern country into an attempt to find some method of arriving at a solution, a solution which will bring both countries in willing partnership in a great task of co-operation. That is the real problem, and if a solution can be found, I believe it is the key to the great question which will face this world till the end of this century, the great question of resolving the conflicting claims of East and West in a world that is gradually getting smaller. It is such a great task and if I did not believe in the experience, goodwill and statesmanship which are to be found both in Britain and in India, I should not believe it possible of solution. But I believe that that is so, and here is the opportunity. It is the last one that is given, and, as our friends go on to this last stage in their great task. I am reminded of these noble words which appear on the column which faces the Viceroy's House which may well be the guiding principles for our representatives from India and for the representatives from Britain.

" In thought, faith

In word wisdom

In deed courage

In life service "

So may India, and Britain, be great. (Applause.)

**Mr. Muhammad Yamin Khan:** The main points by which we have to judge the White Paper are, to my mind, the power which has been transferred, the power which has been reserved, the working of the Federation, and lastly the question of the services. We have to see whether the power which has been transferred is what Indians demanded in the past, whether it is the same power which was advocated on the floor of this House continuously for several years. We have to see whether Honourable Members of this House wanted themselves that certain reservations should be placed on the powers which the future Legislature had to enjoy. When I examine those questions, I remember at once the Resolution which was moved by our late revered friend, Pandit Motilal Nehru. There is nobody in this House or outside who can say that Pandit Motilal Nehru did not reflect the views of the majority of this country. Pandit Motilal Nehru, whether people agreed with him or not, commanded great respect and, as an advocate of the people for the change of power, he put in a kind of amendment to a Resolution moved by the late Sir Alexander Muddiman. In 1924, the late Pandit Motilal Nehru had moved a Resolution to this effect:

"This Assembly recommends to the Governor General in Council to take steps to have the Government of India Act revised with a view to establish full responsible Government in India and for the said purpose (a) to summon at an early date a representative Round Table Conference to recommend with due regard to the protection of the rights and interest of important minorities a scheme of constitution for India, and (b) after dissolving the Central Legislature to place the said scheme for approval before a newly elected Indian Legislature for its approval and submit the same to the British Parliament to be embodied in a statute".

This Resolution was moved on the 18th February, 1924. In 1925, when the late Sir Alexander Muddiman moved a Resolution in this House to the effect that the majority report of the Reforms Inquiry Committee be accepted, the late Pandit Motilal Nehru moved an amendment which we may look upon as the real demand of the country. That was to this effect. I need not read the whole of the amendment. Honourable Members will find it in the Reports of the 7th September, 1925. I will only read certain portions which deal with reservations:

"The Governor General in Council shall be responsible to the Indian Legislature and subject to such responsibility shall have the power to control the expenditure of the revenues of India and make such grants and appropriations of any part of those revenues or of any property as is at present under the control or disposal of the Secretary of State for India in Council save and except the following which shall for a fixed term of years remain under the control of the Secretary of State for India:

- (1) expenditure on the military services up to a fixed limit,
- (2) expenditure classed as political and foreign,
- (3) the payment of all debts and liabilities hitherto lawfully contracted and incurred by the Secretary of State for India in Council on account of the Government of India".

Further on, he said:

"The principle of responsibility to the Legislature shall be introduced in all branches of the administration of the Central Government subject to transitional reservations and residuary powers in the Governor General in respect of the control of military and foreign and political affairs for a fixed term of years, provided that during the said fixed term the proposals of the Governor General in Council for the appropriation of any revenue or monies for military or other expenditure classified as defence shall be submitted to the vote of the Legislature but that the Governor General in Council shall have power notwithstanding the vote of the Assembly to appropriate up to a fixed maximum any sum which he may consider necessary for such expenditure and in the event of a war to authorise such expenditure as may be considered necessary exceeding the maximum so fixed".

The last portion of his motion was a reiteration of the Resolution which he had moved in 1924. From this we can see that the late Pandit Motilal Nehru wanted that the transfer of power to the Legislature should not be acceded in the case of Military and Foreign and Political, and he wanted at that time that some safeguards must be placed for the protection of minorities. You will find from the debates that this amendment of Pandit Motilal Nehru was carried by 72 votes to something like 40 or 44. We have got to see whether this White Paper deals with those demands or not.

I find that the power which has been transferred to the Legislature is in substance the same as that which was demanded by that Resolution of Pandit Motilal Nehru. Not only that, but a great deal of power has been transferred to the country which, I must frankly admit on the floor of this House, the country is not prepared to shoulder for some years. The qualification of the voters has been reduced to payment of a rent of Rs. 10 a year which means practically every adult person in the country. The man who cultivates one *pucca bigha* of land or two or three *kacha bighas* and pays an annual rent of Rs. 10 will be entitled to vote in the elections under the new Constitution. These men do not know what the Legislature is even today. The people who are returned by these voters will call themselves real representatives of the people, but I do not think anybody can call himself a real representative of these people, unless the people understand all the implications of the vote and the Constitution. Until they are in a position to check the conduct of their representatives in the Legislatures and chuck them off if they are not acting in the interests of the country, they cannot shoulder their responsibilities properly. Of course they will learn by and by. They cannot learn unless an opportunity is afforded to them. India's dumb millions in the villages do not care a bit as to what is happening in the Legislatures. They want to be left alone in peace and quiet in their villages. They do not want to be taken to the polling booth, which they consider a nuisance to go to, leaving their homes and their fields. But we must educate them. India must progress and, for this purpose, whether willingly or unwillingly, they must be brought to realise their responsibility as citizens. Now, certain powers are necessary to control the people who will come into the Legislatures. Sometimes they do not come on any political grounds, but simply on the excitement of the day. Some man is hanged and the whole city is in turmoil. If that small thing can turn the tables, then the reservation of power is essential during this transitional period.

Now, if I take these reservations one by one, the powers given to the Governor General, I see that he is not going to exercise his responsibility without first consulting his Ministers and giving an opportunity to the Legislature. So far as an enactment is concerned, he will first seek the help of the Legislature. If he comes to the Legislature and the Legislature refuses those powers, then and then only will he resort to his own powers. As far as the Minister is concerned, it is laid down in the White Paper that the Governor General will consult his Ministers, although they may have nothing to do with the reserved departments and, even in matters relating to Ecclesiastical, Foreign and Political and Army, he will place before his Ministers the whole budget and consult them, and there will be joint meetings between the Councillors and the Ministers. Now, it is for the Minister to take the responsibility or refuse it. The Minister may think that he is not prepared to take up that responsibility and that the House is not prepared to take up that responsibility, while, on the other hand, the Governor General may feel that

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it is essential to keep the internal peace and also peace with people outside and, for this purpose, he has to take the whole responsibility on himself, but the Minister will not be precluded from going into questions pertaining to the reserved Departments and I do not think that the position of the Ministers in the future will be worse than the three Indian Executive Councillors who sit in the Executive Council today. They will be in a far better position. Where they do not want to take the responsibility, they can say that they cannot share the responsibility. Now, the position is, whether the Indian Executive Councillor agrees or not, he has to share the responsibility, but, in future, he will be responsible only for those subjects which will be transferred to him. If the Legislature comes down upon him, he can easily say that it was not his responsibility. I think he will be in a much stronger position and so we need not fear about it.

Now remains the question about the protection of minorities. I have watched the debate in this House. It has degenerated into a talk in which one set of people come down on another set of people. They forget that most of these questions have been settled and they still want to discuss them. If that is the case, it is much better that these things should also form part of the special responsibilities. My friend, Mr. Lalchand Navalrai, feels that he will not be safe in Sind and my friend, Maulvi Shafee Daoodi, feels that he will not be safe in Bihar. For the sake of both these gentlemen, I would say that it is right and proper that these powers should remain reserved powers.

Now, there are certain inherent defects in the working of the new Constitution. I find that Indian Ministers will be from Indian States also. I do not see how it can be possible. The Indian States are coming to a certain extent to join the Federation. Their power and their duty is limited. The British Indian cannot interfere in questions appertaining to the Indian States except in so far as the power has been transferred to the Federation, but a Minister who comes from the Indian States will have the power, not only to interfere in matters affecting the States, but in all British Indian questions. There, of course, cannot be a possibility of a Minister having limited power; if he is a Minister, he must have the full powers of a minister in all matters. I cannot see, however, how that is possible and I suggest that it should be seriously considered in the Joint Select Committee as to how and what manner a Minister, drawn from an Indian State, can be brought into the picture of the Federation. There is another important point. Leaving aside the three Presidencies, the Governors are all drawn from the Indian Civil Service. Up to now, of course, we have had good recruiting ground for Governors from among the I. C. S., but I ask, what will the position be as regards the recruiting ground in the future? Now, if a member of the I. C. S. is to remain in the province as a subordinate under a Minister and, on the next day, he is elevated from the Chief Secretaryship to be the Governor, that will not be politically sound or decent and is anomalous. Now, when our late lamented Governor, Sir Alexander Muddiman, died all of a sudden, we had somebody at once to take charge of the Governor's duties. Then, again, also when Sir Geoffrey deMontmorency fell ill in the Punjab, we had somebody to take up the duties at once. Now, I ask, who would be the person who, in such an eventuality, would take up such duties under the new Constitution?

**Mr. D. K. Lahiri Chaudhury** - (Bengal: Landholders): The Honourable Member himself.

**An Honourable Member:** The Chief Minister.

**Mr. Muhammad Yamin Khan:** My Honourable friend says, the Chief Minister. I wonder if my friend gave any serious thought to it or not. If the Minister becomes the Governor, he at once loses the Chief Ministership. He will have to resign from the Council and for 8 or 20 days he would not like to run this risk. That will be an impossibility. Now, there must be a certain source from which a Governor with all this experience must be drawn. This ought to be cleared up. Then, there is one other difficulty about the Acts which have to be passed by the Governor General on his own responsibility. There is no time-limit about these, as there is, for instance, in the case of the Ordinances. There certainly, I think, ought to be prescribed a time-limit for Acts passed by the Governor General on his own responsibility. It might be that one Legislature would not feel inclined to pass a particular Bill, but then there should be an opportunity given to another Legislature coming later on to do so or not; and if one Minister is unwilling, well, there may be other Ministers who may be quite ready to take up this responsibility on his own shoulders, and I think there ought to be a certain time-limit with regard to all Acts passed by the Governor General on his own responsibility.

**Mr. Gaya Prasad Singh:** Then you approve of this law-making power for the Governor General?

**Mr. Muhammad Yamin Khan:** I have not got much time at my disposal, Sir, and, therefore, I shall now say something briefly about the last item, namely, the services. I think, Sir, we ourselves in India are responsible for whatever has been embodied in the White Paper about the services. You may recall, Sir, that an agitation was started by Mahatma Gandhi that as soon as the power is transferred to the people, nobody should get more than Rs. 500 a month. Well, if that was the slogan (Hear, hear), and if I hear "Hear, hear" on this question, then, I think, that the people in the services naturally must be quite nervous and rightly nervous too. Now, I daresay, whatever we might think on this question and on that, at all events the country will support the proposition without any demur that the services should not be made the foot-ball of party politics (Hear, hear), and that the services should always remain away from party considerations. There might be some political considerations which might affect your finances, but politics should not enter into the question of the services, and their future and their prospects should not be affected merely by reason of certain people's certain inclinations in political matters. If, therefore, safeguards had to be introduced, I do not see that there is anything wrong as far as the protection to the services is concerned in the safeguards now provided, and I think that the right protection has been given to the services and, as far as was desirable under the present conditions, to those for some years to come. Of course, after this Constitution has been proved to work smoothly, there will come a time when it might be declared by the workers of the new Constitution that they are not going to interfere with the services on political grounds, and then of course there will come a time when the change will become imperative and that



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change will be demanded and will be granted. At the present time, at the present stage, in the present conditions, I think it is but right and proper that some safeguards for the services should remain so that they should be away from all political considerations.

Now, I want to say a word or two about Baluchistan and Aden. I fail to see why the White Paper fails to say anything about Aden. There ought to be a declaration somewhere or other about Aden,—as to whether it is going to be part of India or is going to be taken away.

**The Honourable Sir Brojendra Mitter** (Leader of the House): In answer to a question recently, Sir, it was stated that the question of Aden was still under consideration and that no decision had yet been reached.

**Mr. Muhammad Yamin Khan:** I cannot understand why the decision has been delayed. A decision should be forthcoming at once, because a lot of people from the Bombay Presidency, who are interested in Aden, are feeling very much perturbed as to what is going to be the future of this settlement and they want to know exactly what will be the fate of it. This must be taken up at once, I think.

Then, again, the case of Baluchistan has not been properly treated. I do not think that the way in which Baluchistan has been treated and the manner in which it has been left out is right and proper, and I think there must be something done for Baluchistan. With these words, Sir, I resume my seat.

**Sir Hari Singh Gour:** Sir, the three days' debate is now drawing to a close.

[At this stage Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) vacated the Chair which was then occupied by Mr. Deputy President (Mr. Abdul Matin Chaudhury.)]

I must congratulate the Honourable Members who have spoken on this subject on their marked moderation and sobriety, and I feel, Sir, that the general tone of the debate during these three days amply redounds to the credit of the Members of this House and fully justifies the confidence which the people repose in this the only central representative institution in the country. I do not propose to traverse the grounds so ably dealt with by the previous speakers, but I wish to recall a few fundamental facts and, in the light of these facts, examine the proposals contained in the White Paper.

Honourable Members are aware of the declaration of policy by His Majesty's Government of 1917 which promised the gradual development of responsible institutions in this country. When the question was raised as to what was the meaning of the expression "responsible government", Lord Irwin in that memorable Declaration of the 2nd November, 1929, said:

"I am authorised on behalf of His Majesty's Government to state clearly that in their judgment it is implicit in the Declaration of 1917 that the natural issue of Indian constitutional progress, as therein contemplated, is the attainment of Dominion Status."

I find that in the very first Round Table Conference the Prime Minister, speaking on behalf of His Majesty's Government, very clearly stated the objective which His Majesty's Government had in view. At page 80 of

the First Round Table Conference report to which reference has already been made by Honourable Members on previous occasions, the Prime Minister said :

“ At this point I will read to you the declaration which I am authorised to make by my colleagues of the Government. The view of His Majesty's Government is that responsibility for the Government of India should be placed upon Legislatures, Central and Provincial, with such provision as may be necessary to guarantee during a period of transition the observance of certain obligations and to meet other special circumstances with such guarantees as are required by minorities to protect the political liberties and rights.”

Then he deals with certain other points elaborating this declaration made to the Round Table Conference. I find, Sir, that in the Second Round Table Conference, at page 111, His Majesty's Prime Minister said :

“ At the beginning of the year I made a declaration of the policy of the then Government and I am authorised by the present one to give you and India a specific assurance that it remains their policy.”

Then, at the last Round Table Conference, namely, the Third Round Table Conference, the Lord Chancellor, speaking on behalf of His Majesty's Government, said :

“ You are going to get a constitution that, if tended, will grow and increase and gather strength and through the means of accepting the practically possible you will eventually gain the ideally perfect.”

The position that was taken up in all the three Conferences as well as in the Simon report, to which references have been made in the course of the debate, was that whatever may be the future Constitution of India, it must not be static, but dynamic, an organic constitution permitting self-growth and self-development without further recourse to Parliament. That has been emphasised by Honourable Members here, and Honourable Members will find that on this point the Honourable Mr. James, who spoke on behalf of the European Group, associated himself personally as in agreement with that question. But whatever may be his view, I take it that the Members on this side of the House are of the opinion that the future Constitution of this country should be a Constitution permitting of self-growth and self-development without frequent and repeated recourse to Parliament. If that be the objective, an objective as defined in the Preamble to the Government of India Act, 1917, and as explained by the Prime Minister and by Lord Sankey in the passages to which I have referred, it follows that the objective of His Majesty's Government is to create Dominion Status in India and there is a consensus of opinion in this House and in the country outside that the Constitution must be a self-developing Constitution. To that extent, the White Paper does not furnish a sufficient answer. It has been said by several Honourable Members that the White Paper does not even mention the word “Dominion Status”. It deals with responsibility, but whether it does confer responsibility and to what extent is another matter. But the people of this country and the Honourable Members in this House voicing the views of the people outside of it are anxious that the declaration which found place in the Preamble to the Government of India Act of 1917 and as explained by the Prime Minister and the Lord Chancellor and by the Viceroy of India in the passages I have quoted should find a place in the future constitutional document so that the objective may be ever kept in view and may not be lost sight of.

The second point that, I think, Honourable Members on this side stand agreed about is—and in that agreement I take it that all sections and

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communities including our friends adorning the Benches occupied by the European Group are in agreement—that the future Constitution must be an organic Constitution permitting of self-expansion and self-development. Now, these are, I think, the two basic principles of the Constitution to which Members on this side of the House would like to invite the attention of the occupants of the Treasury Benches. Now, upon the point of responsibility in the centre, there was some disagreement. In the First Round Table Conference, and, later on, it was taken for granted that responsibility in the Centre depended upon the structure of Federal Government and that, without Federation, His Majesty's Government were not prepared to grant any responsibility in the Centre. Later on, the Prime Minister's Award settling the communal problem clarified another important issue, with the result that two other basic principles—Federation and the settlement of the communal problems by the Prime Minister until some other settlement is forthcoming as suggested in the Premier's Award itself—became the two bedrocks of the future Constitution of India as adumbrated in the White Paper. A discordant note has been struck by my friend, the Leader of the Independent Party, as to the wisdom and utility of the Federal form of Government, and I find that some support to his view was given this afternoon by my friend, Mr. Anklesaria. But I think both these questions are no longer open to controversy, and if Honourable Members will recall the history of the constitutional development of this country, they will find that Federation is the culmination of the natural development of the constitutional growth and progress of India since the Declaration of 1917. The Indian Princes and the representatives of British India took part in signing the Treaty of Versailles. India, and not British India, was admitted into the hegemony of nations and became a foundation member of the League of Nations. India, and not British India, has been invited to, and was represented at, several Imperial Conferences, and, when fiscal autonomy was given, it was given to India and not to British India alone. And, I venture to submit that, in all International Conferences and Committees, it is India, the greater India, the united India, comprising the two Indias, princely and British, that have found a place. And it seems too late now to separate what came to be united by the force of circumstances as far back as 1918. It was pointed out in a memorandum of the Central Committee that the natural evolution of Indian constitutional growth must lie in the direction of the unification of the two Indias; and, even in the Simon report, this fact was not obscured, but was plainly brought out. And when, therefore, the present reforms take note of that basic principle of Federation between the two Indias, I do not think that His Majesty's Government were breaking new ground, but were merely taking note of what was an established fact of history. I do not think, therefore, that it would be any use now to revive that controversy in this House,—though open certainly it is, but I do not think it would be either wise or profitable,—to go into the question whether responsibility in the Centre can be dissociated with Federation with the Indian Princes. In the White Paper it is very clearly pointed out that if the Indian Princes for any reason do not come into the scheme of Federation, His Majesty's Government will further consider and consult the representatives of India as to what further course to adopt, and that, I think, is a very fair proposal. For the present we assume that the two Indias will be united in a common scheme of Federation. If, later on, there is any difficulty, then a new

scheme might be evolved in consultation with the representatives of British India. So far I think the majority of the Members of this House must be in agreement, but whatever difference there might be on the question of Federation, there can be no doubt that all Members occupying the popular Benches are naturally apprehensive of the wide terms in which the safeguards have been couched in the White Paper. Honourable Members have pointed out that these safeguards not only deal with residuary and exceptional powers, but they might be utilised to cripple and control the day to day administration. It has been said that these safeguards are to be used with common sense and that they are intended to deal with exceptional cases of emergency. Honourable Members on this side of the House feel that while it is so, it must to a very large extent depend upon what the Governor or the Governor General regards as a common sense view of his powers, and, to that extent, the personal equation of the Governor and Governor General must come into play in dealing with the question of safeguards. It has been said in one connection that some of these safeguards have been widely worded. That is to say, in dealing with the financial safeguards it is said in paragraph 31 at page 11 of the introduction to the White Paper :

" The definition of this special responsibility is drawn in somewhat wide terms not in order to diminish the field of responsibility of the Minister, but owing to the difficulty of giving a detailed specification of financial operations or measures which might on occasion endanger stability and call for the use of the Governor General's powers. "

That these safeguards are worded in wide terms is admitted and what is said is that the categorisation of the various circumstances in which the safeguards will be used and the enumeration of certain other factors in which the safeguards might be resorted to must not necessarily imply that they give uncontrolled and unfettered power to the Governor General and the Governor to use them. Now, Sir, I am one of those who are prepared to believe that a constitutional Governor General or Governor is not likely to abuse these powers, but, at the same time, I do not wish to give him a chance to do so, and it is for that reason that Members on this side of the House desire that not only should there be no large safeguards given in wide terms, but they must be strictly defined in the Constitution Act. Some Honourable Members have said that the safeguards may be divided into two classes: one is the retention of the present recruitment of the all-India Civil and Police Services and, secondly, certain safeguards dealing with commerce, finance, currency and exchange, the Reserve Bank and the minorities. Now, both these classes of safeguards are safeguards intended for the purpose of preventing the responsible Government from abusing its powers. Now, the view that Honourable Members on this side would take as regards the Services is that the question about the Services was the subject of discussion at the Round Table Conference and at page 65 of the Report of the First Round Table Conference, paragraph 2, I find the following statement :

" We recommend that for the Indian Civil and Indian Police Services recruitment should continue to be carried out on an All-India basis, but the majority of the Committee are of opinion that recruitment for Judicial Offices should no longer be made in the Indian Civil Service. "

On the next page, page 66, we find the following statement :

" Whatever decision may be reached as to ratio, the majority of the sub-Committee hold that the recruiting and controlling authority in the future should be the Government of India. "

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Now, there is no suggestion that so far as the present incumbents of the Indian Civil Service and the Indian Police Service are concerned, their protection should be other than the protection which they at present enjoy nor is there any suggestion that their pay and prospects of promotion and pension should be subjected to a control other than the control which they at present enjoy. The question is really the question as regards future recruits, and the proposal in the White Paper is that for the next five years the present system of recruitment by the Secretary of State and his control shall continue and, after five years, a Statutory Commission will be appointed which will deal with the question to be finally decided by Parliament. Now, Sir, Honourable Members know that the Statutory Commission, known as the Simon Commission, was constituted sometime in 1927. It came into this country in 1928. We are in the year of our Lord 1933 and the Simon Commission Report is still directly or indirectly under consideration. If we are to leave the future of the Indian Civil and Police Services to be dealt with by a Statutory Commission and, thereafter by Parliament, we do not know how many years it would take before any change in the recruitment and control of these Services is brought about and the fear that is expressed on these Benches, therefore, is that the question about the future of the Services must be decided in connection with the future Constitution now under consideration by His Majesty's Government and that the view of the majority of the Round Table Conference regarding the recruitment and control as regards the future entrants should be adhered to.

It is perfectly true that His Majesty's Government apprehend that this Constitution in the Provinces and in the Centre gives new powers to the Provincial and Central Legislatures. It may be that a section of the people who come into these Councils may do so, not for the purpose of working the Constitution, but for the purpose of breaking it. Instances like that have occurred in the past, and there is no guarantee that a similar action might not be resorted to in the future, and, therefore, there must be at hand a machinery of Government to carry on the King's Government, if representative institutions failed. That is the underlying view of the White Paper in providing for a system of Government which might continue in spite of the failure of responsible Government, and, speaking for myself, there is a good deal to be said in favour of it. But I think that the two divergent views are capable of being reconciled and should be reconciled if only they placate the criticisms that are being levelled against the independence of the Service, a service to which tributes have been justly paid from all quarters and in which I join.

I wish to point out in connection with this and in connection with the so-called commercial discrimination and other safeguards that, if these find a place in a rigid Constitution, the difficulty would be that that itself will create a hostile reaction in the country and men who would have been friends and would have respected the constitution would be treated as agents of a foreign bureaucracy or of a foreign power, and viewed with undue hostility which might impair the usefulness of the future constitution. We are all anxious that the members of the permanent services should work in hearty co-operation with the Ministers and their Government and I am doubtful, if they are placed under the control of an outside authority which exercises meticulous care, not only as to the general

recruitment and control, but, as pointed out by previous speakers, as to their postings and promotions and the various other details of their services, there might be a hostile current of public opinion directed against them which would impair the utility and usefulness which should be avoided. That is a question which, I think, was raised in the House of Commons and it is a question well worthy of consideration. But it is very difficult at the present moment to say as to what should be the line of advance on the subject. I was reading the other day a representation sent, I think, to the Government of India and to the Secretary of State by the Indian Civil Service Association. It voices the apprehensions of the members of that Service as to their future and demands that Parliament should guarantee to them their pay and pension so as to put them outside the pale of party politics and perhaps occasionally party intrigues. If you really want that the Services should be free from political influences, the Services must be independent of the Government. But, at the same time, if they are recruited and controlled by the Governor General with the aid of the Public Service Commission, I think the assurance which they demand would be amply met, and if it is not met, some *via media* has got to be found so as to give them the security they demand, so that their efficiency and standard may not suffer.

Then, Sir, as regards financial safeguards and the establishment of a Reserve Bank, we have had a re-assuring statement from the Honourable the Finance Member to the effect that that question is still under discussion and representatives of the interests concerned will be invited to collaborate with those responsible for establishing the Reserve Bank. The Honourable Mr. James—I do not know whether he was speaking for himself or on behalf of his community, I rather think the latter, and I should be glad if I am corrected if that is not so—associated himself with those occupying these Benches who advocate that like the Reserve Bank the Statutory Railway Board should be established by the Federal Legislature and not by Parliament, and that the power of the Statutory Board should be akin to the power exercised by the South African Statutory Railway Board, and as Diwan Bahadur Ramaswami Mudaliar has pointed out, both the policy and the general administration should not be thrown outside the scope of the Minister for Commerce or Transport. I do not wish to take up the time of this House by going into the details, because all these details, as many Honourable friends have drawn attention to, require a close study. There are no doubt those who possess the advantage of experience gained at three Round Table Conferences, but the rest require a much longer time than many of us, including myself, have been able to give to a close study of the White Paper *vis-à-vis* the conclusions of the three Round Table Conferences. But, taken as a whole, I think the view that this side of the House has expressed and, if not expressed, implied, is that the conception of responsibility at the Centre is a healthy sign on the part of His Majesty's Government, supported as it is by the bulk of the National Government now in power. If such a responsibility had been shouldered by the Labour Party, there might have been difficulties; but, coming as it does by the united voice of the National Government and as a free gift of England to India, it should be the policy of this House to point out to that Government in what respect the White Paper is capable of improvement and must be improved and to what extent the safeguards should

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be minimised and reduced in rigour. As Members of this House and outside have already expressed themselves in unequivocal terms, I have no doubt that His Majesty's Government will take due note of it and this debate will not have been in vain if they put in their forefront, the Honourable occupants of the Treasury Benches who have listened to this debate and who will voice the sentiments of the elected Members of this House as to what are the shortcomings of the White Paper, upon which this House has deliberated for the past three days.

Some of my friends have referred to the question of the High Courts. This House has already deliberated upon that question and Honourable Members, who asked me to refer to it, must be aware of the view that has been expressed by this House in a considered Resolution. The view on this side of the House finds echo in the deliberation of the Round Table Conference to which I have adverted. It has been pointed out by the Round Table Conference that, so far as the High Court is concerned, the reservation that has been made to the members of the Indian Civil Service is no longer necessary and I, therefore, submit that that should allay the fears which my friends behind me feel regarding the future recruitment to the Indian High Courts.

**Mr. A. H. Ghuznavi:** Sir, I do not stand here today to defend the White Paper. It needs no defence at my hands. I must say that the proposal contained in the White Paper, if I may say so, is a definite advance and of a far-reaching character. That the proposal requires changes goes without saying. I was very amazed this morning when I heard my esteemed friend, Diwan Bahadur Ramaswami Mudaliar, making his speech. He started this morning by saying that, after seeing the White Paper, a journalist friend of his, who was sitting by him, asked him to give his impressions on that Paper and having glanced for fifteen minutes and perusing that paper very hurriedly he gave his friend his impression thereon: he told him that his first impression was that it was a very good measure and—mark the words—“to a very considerable extent, the Secretary of State kept his word and that the proposals, many of them, were embodied according to the recommendations either unanimously or by a majority or of a considerable section of the various sections of the Round Table Conference”. Then he said that, after mature consideration, he did not think there was any reason why he should depart from the impression that he received on the first occasion and gave expression to. Then, Sir, what was the point he was wild about this morning? What was there that he attacked the Treasury Benches and particularly the ferocious attack that he made on the Indian Members of His Excellency the Viceroy's Council? He attacked them saying: “Why did you do this? Why did you do that? Why did you not do that?”. Good heavens! How are these poor fellows to be blamed for what has been written in the White Paper? How are they responsible for what is written there? I should have thought that he should have attacked himself. Why did you not do this? Why did you not do that? Why did you not see that this was not written? It was for you to do that, not for those Members who are here. They are not responsible for what is written in that White Paper. If any question of responsibility arises, it is that of the Secretary of State to whom Mr. Mudaliar has given a very big certificate, at the beginning that he has done what he had promised us to do. Then, what

was the grievance, against whom was the grievance? It was all very amazing how he followed up the first portion of his speech and how inconsistent the latter portion of his speech was with what he said in the beginning. That, Sir, made me forget entirely what I wanted to say. I would have said a different story, but I felt so hurt, because I have the highest admiration for him. Starting in this way, after giving his considered opinion, he found that whatever the Secretary of State promised has been carried out. Then he is up in arms and levels a charge against the Treasury Benches for not doing this and not doing that . . . .

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions: Non-Muhamadan Rural): Because they failed to carry out the agreement.

[At this stage, Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) resumed the Chair.]

**Mr. A. H. Ghuznavi**: Sir, many members of the Round Table Conference would not have said many things if what they said in London were in cold print. Perhaps Honourable Members are not aware that at the Third Round Table Conference the speeches that were delivered were not recorded, but still Members who were present at the Conference used to be provided with a summary of the daily proceedings, and, if I remember aright, I have jotted down this morning what my friend, Diwan Bahadur Ramaswami Mudaliar, said on one of those occasions in London. He said:

"We understand your difficulties. You want safeguards, because you want to satisfy your people here that their control over"—mind you the words,—

"You want safeguards because you want to satisfy your people here that their control over Indian administration will not suffer materially. At the same time we will have to tell our people that these safeguards will not in practice affect their control over the Indian administration".

Sir, we have heard a good deal about the proposals being hedged round with safeguards, and so on. Who are the people responsible for these safeguards?

**Diwan Bahadur A. Ramaswami Mudaliar**: We.

**Mr. A. H. Ghuznavi**: Certainly, it is we, Muslims and Hindus.

**Sardar Sant Singh** (West Punjab: Sikh): I am glad the Muslims come first.

**Mr. A. H. Ghuznavi**. Sir, I have got in my hand the minutes of the sixth meeting of the Conference held in the House of Lords on the 28th November regarding the safeguards about law and order. The discussion under this head was confined mainly to the administration of "Law and Order" and to the provision of safeguards against the breakdown of that administration. Sir, I am reading from the minutes:

"One delegate took this argument a stage further and urged that powers of intervention should be confined to the Governor, who should have the power to call in military aid, without the necessity of reference to the Governor General, a restriction which implied delay: in his view it was unnecessary to invest the Governor General with the special powers in question. Another view was that, while it was important to provide for emergencies, it was equally, if not more important, to secure that the first means of dealing with an emergency, namely, the Police Force, should not be allowed to rust and so prove inadequate when an emergency arose. This view was echoed by certain delegates with personal knowledge of Bengal."



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—I may straightaway say that I was not the person who said it,—my Honourable friend, Mr. Joshi, might probably remember the name—

“who urged that in that province it was essential that powers of supervision should rest with the Governor and Governor General. A similar view was expressed of the Punjab though for different reasons, by the Sikh delegate”.....

**An Honourable Member:** By whom?

**Mr. A. H. Ghuznavi:** I am coming to that:

“He maintained that while ‘Law and Order’ should properly be transferred in those provinces where the communities were satisfied that the communal balance would be adequately maintained the dissatisfaction of his community with the Government’s communal award was such that law and order could not safely be entrusted to ministerial control. If, however, His Majesty’s Government insisted on transfer of ‘Law and Order’ in the Punjab, he would suggest that the Minister in charge be assisted by a statutory board composed of one Hindu, one Sikh, and one Muhammadan, and that in the event of a disagreement between the Board and the Minister, the Governor should decide.

Another minority representative, the Hindu delegate from the Punjab, urged that the proposed emergency powers of the Governor General should be both wide and clear in order to secure his effective intervention”.

And still we complain why there should be these safeguards . . . .

**Sardar Sant Singh:** May I inform my friend that the Sikh delegate was boycotted by his community?

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order.

**Mr. A. H. Ghuznavi:** All this trouble we could have avoided if, in the first year, in 1930, we could have settled our communal differences amongst ourselves; if we could have given the British people our united demand, the thing would have been different today. We failed, Sir, to arrive at a settlement in 1930.

**An Honourable Member:** Shame.

**Mr. A. H. Ghuznavi:** The House probably does not know it, but I will tell the House how we failed. Sir, the discussion in 1930 over the communal settlement was almost complete . . . .

**Diwan Bahadur A. Ramaswami Mudaliar:** On the basis of joint electorates.

**Mr. A. H. Ghuznavi:** Thank you. Sir, at the Downing Street meeting, the Prime Minister appealed to both the Hindus and Muslims for an immediate settlement, and I must say to the great credit of my colleagues, Sir Provash Chandra Mitter, and Mr. J. N. Basc, who got up and said that they would leave it to the arbitration of H. H. the Agha Khan. I assure you, Sir, I felt very nervous about it indeed, because if the matter had been left to H. H. The Aga Khan, I do not know which way he would have given his decision. But thank God, our friend from Bengal, Mr. B. C. Chatterjee, saved us from this awkward situation. He condemned Sir Provash Chandra Mitter’s action and he condemned Mr. J. N.

Basu's action, and he asked who they were to represent the Hindus? He further pointed out that they did not represent the Hindu community at all, and that the only leader the Hindu community would recognise, it was pointed out, was Dr. Moonje. Well, Sir, even after that, a settlement was arrived at. The Prime Minister laid down this principle that no majority community in any province should be reduced either to a minority or to an equality. Therefore, he was of opinion that the Punjab and Bengal should get 51 per cent. at least and he was inclined to give that number of seats in the Provincial Councils in the Punjab and Bengal where they were in majority. Before we came to the question of Bengal, we took up the question of the Punjab. Sir, for one single seat, which the Sikhs demanded we failed to come to a settlement. That seat they must have from the Muslim quota and from nowhere else, that is, they must have their pound of flesh from the Muslims. That seat was offered to them by the Prime Minister from the quota of the Depressed Classes, but they would not accept it and wanted to have that seat from the Muslims in order to reduce the Muslim majority into an equality, if not into a minority. That is the history of our failure at the beginning. Even then, in answer to my Honourable friend, Mr. Amar Nath Dutt, may I read just one paragraph from the offer which the late Sir Muhammad Shafi made? We, Muslims, were prepared to accept joint electorates, but Dr. Moonje refused to agree. Sir Muhammad Shafi said:

"We are prepared to face our community in India and to accept a joint electorate and that is because we have been moved by the pathetic appeal of Sir Chimanlal Setalvad."

He repeated the offer:

"May I say that so far as we are concerned we are prepared to accept joint electorates on the conditions named by me, firstly that the rights at present enjoyed by the Muslims in the minority provinces should be continued to them, that in the Punjab and Bengal we should have joint electorates and representation on a population basis, that there should be the principle of reservation of seats coupled with Maulana Muhammad Ali's condition. That is the position so far as we are concerned."

**An Honourable Member:** Maulana Muhammad Ali's formula is equivalent to separate electorates.

**Mr. A. H. Ghuznavi:** Sir Muhammad Shafi again appealed:

"*Sir Muhammed Shafi:* Do I understand that the proposal made by me on behalf of the Mussalmans on the basis of a joint electorate is not accepted by Dr. Moonje?"

*Chairman:* Would you answer that, Dr. Moonje?

*Dr. Moonje:* Would you please repeat the question?"

The question was repeated.

"*Dr. Moonje:* Does your proposal include my acceptance of the principle of giving a statutory majority to a community wherever it is a majority?"

*Sir Muhammad Shafi:* The proposal as made, whatever it includes. The proposal is made—do you accept it or do you not accept it? We have other proposals. Tell us, do you accept it or do you not? That is the question.

*Dr. Moonje:* I have taken notes of your proposal.

*Sir Muhammad Shafi:* I will repeat it if you like, if you want me to."

He repeated it, and Dr. Moonje said: "I cannot accept it".

That was the position we had in 1930. Sir, in 1931, we had full hopes that what we could not do in 1930, we should be able to do in 1931. When Mr. Gandhi went to England, we felt that he at any rate would bring about

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a settlement of the Hindu-Muslim question, that is, the communal question. Mr. Gandhi said so far as the Muslims were concerned:

"We will give you separate electorates, but you must join with me in resisting separate electorates for the Europeans, Anglo-Indians, Christians and the Depressed Classes".

He went even further and said that if we joined him in resisting separate electorates for these people, he would give us a blank cheque. And what was that blank cheque? That was that we should have separate electorates in all the provinces, that in the province of Bengal and in the Punjab we should get representation on the population basis, that is to say, 55 per cent. in Bengal and 56 per cent. in the Punjab, and, as for the other provinces, where we were in a minority, he would give us the weightage that we were now enjoying. He agreed to the separation of Sind; he agreed to the North-West Frontier Province being made a Governor's province; he gave us all that we wanted, only we should agree to resist with him the giving of separate electorates to others and also to help him in getting responsibility in the Centre. Those were the two conditions on which we could have all that we wanted. But what did we do? We acted as gentlemen. We had given our word to the Depressed Classes for whom Mr. Gandhi now sheds crocodile tears. We gave them our word that we would be behind them and that we would not let them down. And we felt that Mr. Gandhi's offer was a bait to entice us. We stood by those friends to whom we gave our words and the result was the Minority Pact.

(At this stage Bhai Parina Nand rose in his seat.)

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. The Honourable Member has not given way.

**Mr. A. H. Ghuznavi:** Sir, the Minority Pact, when it came to be known in London, caused a feeling of consternation in the mind of Mr. Gandhi. When he came to know late at night that the following morning our signatures were going to be put to it, he sent his emissaries in the night offering the Mussalmans more privileges than what we had demanded, provided, we did not put our signature to the Pact. My Honourable friend, Sardar Sant Singh, yesterday said that if Mr. Gandhi had been free today, wonderful things would have happened, and so on. I interrupted him and said "Question", and he was wild. I will tell you that when Mr. Gandhi went to England, he said that he was representing 95 per cent. of the people of India—not British India, but India. Mr. Ambedkar enquired who were the five per cent. that he was not representing. Although the Muslims, the Depressed Classes, the Anglo-Indians, the Christians and the Europeans said that he did not represent them, still he persisted in saying that he was representing 95 per cent. of the people of India. When the Minorities Pact was about to be signed, Mr. Gandhi went to the Ritz Hotel to see His Highness the Agha Khan and the other Moslem leaders. He told them that there was yet time to withdraw from the Pact and, if that was done, he would give them all that they wanted. My Honourable friend, Mr. Amar Nath Dutt, yesterday took us to task why we did not agree to the joint electorate. He said what a beautiful thing it would have been if we had agreed to the joint electorate. There is no communalism in Bengal; it is only on the floor of this House.

Now, I will give you the history of the joint electorate as briefly as possible. I have already exceeded my time and so I will be very brief. It was during the Minto-Morley Reforms that we got communal representation, call it communal electorate or separate electorate. The then Secretary of State, Lord Morley, gave us six seats from the six districts on a communal basis and the rest of the seats in the first Bengal Legislative Council under the Morley-Minto scheme we had to contest in a joint electorate. You will be surprised to hear that we could not capture a single joint electorate seat in the Bengal Legislative Council, although we were in a majority in Bengal, excepting one seat and that was also by a fluke. The paper of the Hindu candidates was declared invalid.

**Mr. S. O. Sen** (Bengal National Chamber of Commerce: Indian Commerce): What about district board elections and municipal elections in rural Bengal?

**Mr. A. H. Ghuznavi:** You have no experience of elections in Bengal. Then, when did this joint electorate agitation start? It started from that foolish letter that was written by Lord Olivier who was then Secretary of State. He wrote a letter to Mr. Satyamurti in Madras condemning the system of communal electorates. They got a clue from that letter and the Hindu Mahasabha started that agitation. The history of separate electorates is a long history. We could never get ourselves elected before we got separate electorates. My Honourable friend, Mr. Amar Nath Dutt, said yesterday that nowhere in the world exists separate electorate. It does exist even now.

**Mr. Amar Nath Dutt** (Burdwan Division: Non-Muhammadian Rural): Perhaps it is as unfortunate a country as India.

**Mr. A. H. Ghuznavi:** Lord Morley in 1909, said:

"The Muslims demand three things. I had the pleasure of receiving a deputation from them and I know very well what is in their minds. They demand the election of their own representatives to these councils in all the stages, just as in Cyprus, where I think the Muslims vote by themselves. They have nine votes and the non-Muslims have three or the other way about. So in Bohemia, where the Germans vote alone and have their own register. Therefore we are not without a precedent and a parallel for the idea of a separate register".

Then, Mr. Asquith said in the House of Commons:

"Undoubtedly there will be a separate register for Muslims. To us here at first sight it looks an objectionable thing because it discriminates between people and segregates them into classes on the basis of religious creed. I do not think that is a very formidable objection. The distinction between Muslim and Hindu is ~~not~~ merely religious but it cuts deep down into the traditions of the historic past and is also differentiated by the habits and social customs of the community".

Again, to my Honourable friend, Mr. Amar Nath Dutt, I will say that great men of India like Mr. Gokhale were for separate electorate. He was in substantial agreement with the views of the Government of India on Muslim representation. The Congress and the Muslim League were for separate electorates. They passed a Resolution in 1916. Lord Sinha was for a separate electorate. He said so when he introduced the Bill in the House of Lords. Pandit Jagat Narain of the United Provinces, Sir Surendra Nath Banerjee and my friend, Kumar Shib Shekhareswar Ray, were also for separate electorate. Will my friend be satisfied if the

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late Mr. C. R. Das was for separate electorate? In 1923, Mr. C. R. Das entered into what was known as the Bengal Pact with the object of settling Hindu and Muslim differences. This Pact was ratified at the following session of the Bengal Provincial Conference and it provided for communal representation in the Bengal Council and in local bodies in the proportion of 60 to 40 accordingly as either community was in a majority of population and for the grant of 55 per cent. of Government appointments to Muslims.

Then, our friend and colleague, Mr. Chintamani, who went to London (who was a Minister in the United Provinces), giving his evidence before the Reforms Enquiry Committee, said this. He was asked:

"I believe you had something to do with the granting of separate electorates to the Muhammadans in the District Boards.

*Answer.*—Yes.

*Question.*—This state of things may also partly be due to the very fact that the Muhammadans having been satisfied in the demand that they were putting forward for a separate electorate there is now less friction between the Hindus and the Muhammadans."

Mark the words,—“there is now less friction between the Hindus and the Muhammadans”.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Honourable Member has taken over half an hour.

**Mr. A. H. Ghuznavi:**

*Mr. Chintamani.*—Now, one cause of the friction has been removed”.

**Mr. S. O. Mitra:** What are you reading from? Is it from Sir Abdulla Suhrawardy's dissenting note?

**Mr. A. H. Ghuznavi:** Yes, I am reading from a supplementary note of dissent by Sir Abdulla Suhrawardy. Sir, I shall not take up the time of this House any longer. I have explained the position to my Honourable friends. We, Mussalmans, have always been agreeable to come to any proper understanding with our Hindu brethren. We gave them an offer in 1930. We gave them the offer to go as far as “joint electorates”. Sir, we know what would have been our fate after we had come back, and how we would have been treated by the Muslim Community, and I know it for a fact that, merely because Sir Muhammad Shafi made an offer for joint electorate in his speech black flags awaited him when he returned. Nevertheless, we still wanted to face our community and bring about a fair settlement between the Hindus and the Mussalmans. Sir, there is a moral to be learnt. If only we had agreed amongst ourselves, if we had only made a joint demand on the British people, this White Paper would have been different from what it is today! Safeguards have now been provided. Yes, we asked for those safeguards; several Hindus asked for safeguards; it is no use putting the blame on His Majesty's Government. At the same time, Sir, I say that this White Paper will have to be drastically changed before it can be accepted by this country. (Applause.)

**Mr. K. O. Neogy** (Dacca Division: Non-Muhammadan Rural): Sir, we have been told in this House. . . .

**Mr. N. R. Gunjal** (Bombay Central Division : Non-Muhammadan Rural) : On a point of order, Mr. President. I suggest that as tomorrow has been fixed for a non-official day, we can perhaps continue the debate on this subject tomorrow?

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty) : Order, order. That request might be addressed to the Government at the end of the debate.

**Mr. K. O. Neogy** : We have been told in this House more than once that it is a dual policy that the Government have been following for the purpose of solving the great Indian problem. It is a two-fold policy,—a policy of repression and a policy of constitutional advance, a policy, that is to say, of coercion coupled with conciliation. Sir, I seem to notice a frown on the face of the Honourable the Home Member at the use of the expression, "policy of repression". But I am not speaking without authority. In the House of Lords, in 1931, while discussing the White Paper of that year, the Under Secretary of State said :

"In the long run, repression is no remedy. Political discontent requires a political cure,"

admitting in so many words that the other half of the dual policy was certainly a policy of repression. Now, Sir, we are dealing with the other half of the policy in this White Paper, and if this represents a political remedy for a political malady, then all I can say is that it is one of the worst quackeries that has been known in the political history of the world.

Now, Sir, what is it that we have been encouraged to hope for and what is it that we have got in the White Paper? My Honourable friend, Sir Hari Singh Gour, took us through the history of the various pledges that were given to this country by Great Britain, and he expressed his disappointment that although Lord Irwin gave an assurance of the attainment of Dominion Status by this country, there is no mention of that expression in the White Paper. I need not go back to the earlier history. I would ask my Honourable friend to examine the recent pronouncements of responsible politicians of Great Britain and he will find an answer to his question. It was in 1931, when the White Paper was under discussion in the House of Commons, that Mr. Churchill for the first time tried to explain away this promise of Dominion Status. He said :

"Dominion Status? That merely implies a rank; and, so far as rank is concerned, India certainly did attain to Dominion Status as early as the Imperial War Conference. Having participated in the War Conferences and the Peace Conference, having been an original member of the League of Nations, India has attained that status already."

He said that Dominion Status was something different from the Dominion form of Constitution which was never promised to India. Now, I should not have very much troubled myself over this statement of Mr. Churchill's had it not been reinforced by no less a man than Sir Austen Chamberlain, who, as we all know, had a good deal to do with the historic pronouncement of August 1917. Sir Austen Chamberlain, speaking on that occasion, corroborated this interpretation of Mr. Winston Churchill and he invited Lord Irwin to say definitely as to whether that was not the correct interpretation and whether he did not agree with it. A few days later followed the debate in the House of Lords, and what do we find? The Archbishop of Canterbury, in spite of all his sympathies

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for Indian aspirations, had no hesitation in agreeing with this interpretation of the expression "Dominion Status", and Lord Irwin, who spoke later, had not a single word to say about it. Now, if my Honourable friend in his diligent studies goes into the subsequent pronouncements of responsible Government spokesmen in England, he will find that this expression has been religiously avoided in all of them. Now, Sir, we have been told that in the White Paper, that was issued in 1931, a promise was given that the responsibility for the Government of India was going to be laid upon the Legislatures—Provincial and Central. Let us, therefore, forget "Dominion Status" and examine the proposals from the point of view of responsible Government. Can anyone in this House, even including Mr. James, say that we have got all that is wanted in a responsible system of Government, even in regard to the provinces where it is claimed that we are going to have almost complete autonomy? My Honourable friend, Mr. Ranga Iyer, is not here. (*A Voice*: "He is here.") Is he? Well, I am sure, the test, which Mr. Goldwyn Smith has laid down for the purpose of determining as to whether a Governor satisfies the requirements of the head of a responsible Government, will, I am sure, be appreciated by him. Mr. Goldwyn Smith says this, in dealing with the changes that take place in the constitutional powers of the Governor,—when there is a change from what is technically called representative Government to responsible Government:

"A Governor is now politically a cypher. He holds a petty court and bids champagne flow under his roof; receives civic addresses and makes flattering replies, but he has lost the power not only of initiation but of salutary control."

Other constitutional writers have pointed out that horse-racing and cricket should form the more appropriate matters of interest for a Governor under a system of responsible Government than actual administration. If a Governor had the necessary tact, he could certainly in a way influence the policies of a responsible Government, but then there must be no whisper that he was seeking to do it. Now, Sir, let my Honourable friend, Mr. James, say as to whether, even in regard to the provinces, we can say that this picture approximately corresponds to what is given in the White Paper?

Now, Sir, I come to the Central Legislature, because my time is very very limited indeed. All of us on this side of the House greatly appreciate the spirit of the speech of my Honourable friend, Mr. James. Mr. James, referring to the special responsibilities of the Governor General, said that there is nothing very extraordinary in all that has been laid down there. Either some of these are already in existence under the present Government of India Act or they are very necessary for the promotion of the general interests of the country. The Governor General, under the present proposals, will have so many different functions and responsibilities that I did not wonder that a speaker in the House of Commons said that for a Governor General of the future Constitution of India what was needed was an Archangel Gabriel and Winston Churchill roled into one. When I went through the long catalogue of the duties and responsibilities of the Governor General, I was forcibly reminded of a very powerful Divinity in the Hindu Pantheon possessing five heads and perhaps as many pairs of hands—the All-powerful Shiva. Now, Sir, for the first time the Governor General will get Statutory recognition of his status as the Viceroy, the Viceroy having no statutory existence at the present moment. This

will be the incarnation of Paramountcy, the Viceroy. Then we have the Governor General with reference to his personal responsibility to Parliament and His Majesty's Government, in respect of Defence, External Affairs and Ecclesiastical administration. Thirdly, we have the Governor General exercising special responsibility in the Federal sphere. Fourthly, we have the Governor General exercising the discretionary powers with reference to the Legislature and other things. And, fifthly, we have the Governor General exercising his control over the Governors of Provinces in regard to the Governor's special responsibilities in the Provincial sphere. Now, Sir, time will not permit me to examine all the various functions that have been assigned to the Governor General in all these various capacities, but I will just take up one of the points relating to special responsibility. Honourable Members will find that, in regard to this special responsibility, it has been clearly laid down that it is not to be confined to spheres of administration, but that it should be for certain clearly indicated general purposes. That is to say, this responsibility would not be confined to any definite subjects, but it would be an all-pervading responsibility in regard to the Federal sphere. And, now, if we come to examine one of the various items laid down with regard to the operations of the Federal Government in respect of which the Governor General's special responsibility will have to be exercised, we find this. This is the last item in the list on page 9 of the White Paper: "Any matter which affects the administration of the Reserved Departments". Now, the principal Reserved Department being Defence, let us see how this works out in practice. And here I have the great advantage of having the opinion of the Honourable Members opposite. Although they have imposed on themselves a vow of silence in regard to the merits of this question, I am in the happy position of quoting from their Despatch on the Simon Commission report which has a great bearing on this particular point. Two out of the three Honourable Members who are at the present moment sitting on the Front Bench opposite were signatories to this Despatch, and I daresay they remember what they wrote on that point. The Simon Commission made a somewhat similar recommendation to that made in the White Paper regarding the Department of Defence, namely, that it should be a separate Department, that is to say, a Department to be administered directly under the responsibility of Parliament, and the Government of India, in their Despatch, were vehemently protesting against that suggestion. They pointed out that the Defence problem could not be treated separately from the other problems of administration:

"The Army Department is in contact with the Civil Departments from day to day. At present, it deals with them on an equal footing, but if it became an authority separate from the Central Government, some conflict would almost certainly ensue".

Then, in another place, they give a long catalogue of the interests of the Army Department in the civil sphere. They say:

"In considering the wider aspects of the defence problem, the defence administration of the State cannot be dissociated from other branches of the administration such as (*now my Honourable friends should count the number*) Finance, Maintenance of Order, Quelling of Civil Disturbances, Posts and Telegraphs, Railways, Trade, Shipping and Transport, Labour, Health and even Education. The efficiency of the fighting services depends to a large extent on the general efficiency of the nation in these Departments, and on the degree to which the national resources have been co-ordinated in peace and can be harnessed in War".

They are insisting on co-ordination with regard to the normal activities of the various Departments in times of peace; they are not dealing with conditions of war. Now, once again read what is there in the White



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Paper. "Any matter which affects the administration of the Reserved Departments", the principal of them being Defence. In what manner can this House expect the Governor General to exercise his powers of special responsibility if we are to accept the verdict of the Government of India on this particular point? That shows the amount of responsibility that is being allowed to the future Federal Government.

Now, Sir, time is pressing and I will just now proceed to the question of the Statutory Railway authority. I have no time to go into the history of this ignoble proposal. If Honourable Members desire to read the past history, I will refer them to the proceedings of this House, dated the 26th February, 1931, where they will find that I had once the opportunity of relating that history at page 1347. Now, Sir, this proposal originated from the Government of India in that Despatch from which I have just quoted. I have no quarrel with the Government of India. They are perfectly at liberty to hold whatever opinion they want. But, Sir, when that Despatch was sent up, we in this House did not know anything about it, and when I raised that debate to which I have made reference, and when I related the whole history of this question. Sir George Rainy, who himself was a signatory to that Despatch, seemed to have been taken by surprise and he said: "Well, why should Honourable Members think that anything would be done behind the back of the Assembly?" This is what Sir George Rainy said:

"My Honourable friend is afraid that we may smuggle through by some concealed methods provisions about the railways which the country does not want. What does the whole Round Table Conference procedure mean but procedure by discussion and agreement; and how is it possible in those circumstances, and how can His Majesty's Government connive at the sort of schemes which the Honourable Member thinks the Government of India have in their minds?"

I do not know whether he really remembered what was written over his signature on this particular point. However according to Sir George Rainy, His Majesty's Government could not agree to any such thing being done without discussion at the Round Table Conference. Sir, I have the advantage of speaking in the presence of about half a dozen members of the Round Table Conference, and I ask them to tell the House whether the Round Table Conference was at all given an opportunity of discussing this question. What happened was that the suggestion was smuggled in by the Federal Structure Committee into one of their reports, and member after member got up and protested against this action over a subject which was never discussed, and yet it finds a place in that report. But, then, when the Consultative Committee was appointed in India, this question was placed before it, and I do not know whether there is any member of the Consultative Committee present here just now. (*Some Honourable Members*: "Mr. Ghuznavi".) Mr. Ghuznavi will bear me out when I say that the Consultative Committee did not approve of the proposal as embodied in the White Paper. They said that, if need be, the Indian Legislature should be left free to legislate in the matter. That was the opinion of the Consultative Committee; but even this opinion of the Consultative Committee was not brought up for discussion at the Third Round Table Conference, in spite of certain suggestions which, I understand, were made by Sir Purshotamdas Thakurdas, if not by others also. This is how Sir George Rainy's assurance has been given effect to, and we read that this question is still under discussion between the Government in England

and the Indian Government. And I have severe complaint against the Honourable Member in charge that he has not taken this House into confidence in this matter, although it was admitted by the Honourable the Finance Member yesterday that this House is vitally interested in this question. The procedure which he has mentioned of a consultation which would take place in London, I may respectfully point out to him, does not find support on this side of the House. We have got too painful experiences of the hole and corner fashion in which these Conferences are held and in which the selections of members for these Conferences are made. My Honourable friends, Sir Cowasji Jehangir and Diwan Bahadur Mudaliar, referred to this question of the Statutory railway authority, but, I am afraid, neither of them did full justice to the case. The time at my disposal does not permit me to go into any great length in dealing with this question. But, Sir, I will say this that agreeing with Mr. James I demand that the Statutory Board should be set up by a Statute of this House, and when I make this statement I am prepared to take a challenge that the non-official section of this House will be with me if there is a straight vote taken on this issue. Diwan Bahadur Mudaliar has said that it does not at all matter if the body is set up by Parliamentary legislation if the points on which we are keen are provided for. My Honourable friend's experience at the three successive Round Table Conferences ought to have told him that he could not expect the British Government to act in response to Indian opinion in this matter, nor could he expect the British Government to honour any agreement which might be arrived at at the conference to which reference was made by the Finance Member. Diwan Bahadur Mudaliar referred to the South African Constitution. I have a book here dealing exhaustively with the South African railway policy. It is no doubt true that the South African Union Act, which is a Parliamentary Statute, did lay down the general lines on which the Statutory Railway Board should be set up. Mr. Mudaliar has given a quotation from the most important section which requires the appointment of a Statutory Railway Board by the Governor General in Council. But my Honourable friend perhaps is not aware that under that Parliamentary Act it is open to the South African Legislature to lay down detailed provisions and to interpret the Parliamentary enactment in this particular matter. If my Honourable friend were to look up this book, he would see that the Railway Board Act under which the Statutory Railway Board in South Africa at present operates is an Act of the South African Legislature subsequent to this Parliamentary enactment; and, in this Railway Board Act, the South African Legislature has explained this particular section to which I have made reference. This is how they interpret it:

"Railways, ports and harbours of the Union shall be administered and worked under the control and authority of the Governor General in Council to be exercised through a Minister of State who shall be advised by the Board."

That is the constitutional position of the Board in South Africa. It is an advisory board, the entire responsibility for the administration being of one Minister of Transport. Sir, I have no time to deal with the Railway Board Acts of Canada. There no enactment of the British Parliament requires the setting up of a railway authority. It is no doubt true that the Canadian Parliament itself has adopted certain enactments setting up an authority of railway management. Now, Sir, time is short; I have just formulated a few points on which we must insist. We on this side of the House would never be able to reconcile ourselves to a statutory authority set up by virtue of a meticulous provision of the new Constitution Act. I

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have said that the first and foremost condition is that the Board must be set up by a Statute of the Indian Legislature and, as Mr. James said, there is no differentiation possible to be made between the case of the Railway Board and that of the Reserve Bank. In regard to both of these institutions what Government want is to prescribe a Constitution which would keep them above political influence. And I invite my Honourable friends sitting opposite to give up their Sphinx-like silence and tell me what exactly the points of difference between these two institutions are which can possibly justify the enactment of the provisions relating to the Statutory Railway authority in the Constitution Act and not by an Act of this Legislature, as is proposed to be the case in regard to the Reserve Bank. Now, Sir, to proceed with my conditions, the composition of the Board should be adequately representative of Indian commercial and industrial interests, and the technical management may be left in the hands of a small body of experts appointed by the Board. The Board, which should be subject to the general control of the Federal Legislature, should have certain statutory obligations corresponding to its statutory powers. These obligations should include among others the following:

- responsibility for the financial success of the railway management as a whole and with reference to each group of railways, a responsibility which could be brought home to the trustees or the members of the Board if anything went amiss;

- responsibility for providing a stated contribution to General Revenues;
- responsibility for maintaining the railway property in good repairs and with unimpaired efficiency;

- responsibility for providing adequate facilities for movement of goods, parcels and passengers at reasonable rates and fares;

- responsibility for a proper encouragement of Indian industries and commerce;

- responsibility for speedy Indianisation of railway services;

- responsibility for the purchase of railway stores from India whenever available; and

- responsibility for the removal and prevention of racial discrimination on the railways.

These are the few points on which we must insist whether such a body is set up by this House or by any other authority, though, as I have said, I should strongly protest against any interference in regard to the details of such a body being made through the Constitution Act.

**U Kyaw Myint** (Burma: Non-European): Sir, I shall be very brief indeed, in view of the lateness of the hour. You know, Sir, and the House will remember, that Burma has been mentioned, dishonourably mentioned, in a foot-note in the White Paper, and nowhere else, so that, if I presume to address this House, it will not be in the capacity of a representative of a province which has not yet made up its mind, but as a citizen of India.

I have sat during the last three days in agony on the Opposition Benches—in agony because of the extreme moderation of the speeches. This House has already been accused of one betrayal, commonly called the Ottawa Betrayal; and we are now in danger of being accused of a second betrayal, the White Paper Betrayal.

Sir, the shadow of the invitations to the Joint Select Committee has lain very heavily on this House. (Hear, hear.) The Honourable the Leader of the House showed an air of great detachment when he started the ball rolling: "Here you are, I have finished with it". That seemed to me to be his attitude. And though very rarely indeed have the Treasury Benches intervened in this debate, I wish to Heaven that the Honourable the Finance Member had not intervened in this debate at all, because he has intervened only to throw a bombshell in our midst, thereby creating more shadows of more invitations to more Conferences. I, as a Member, a somewhat unruly Member, sitting on the Opposition Benches, greatly resent the tone of moderation that has prevailed in the debate. I am grateful to the few Honourable exceptions: Mr. B. Das, Sardar Sant Singh, Mr. Gaya Prasad Singh, Mr. Joshi, and (from the most unexpected quarter) Mr. Anklesaria, and, lastly Mr. Neogy. With these honourable exceptions, the participants in the debate were either defending themselves as members of former Round Table Conferences, or defending their activities at the various Round Table Conferences, or defending their rights to invitations to future Conferences.

**An Honourable Member:** What do you say about the Leader of your own Party?

**U Kyaw Myint:** I shall come to that, Sir. I was greatly disappointed with the first speaker from the Opposition Benches. With the greatest respect I will name him: the Honourable the Leader of the Independent Party. I was equally disappointed with the speech of my own Leader. How can I, sitting on the Opposition Benches, allow such an unreasonably moderate tone of criticism to pass unchallenged?

What is the idea underlying the White Paper? Let us go back a few years, to the famous Declaration of 1917, which may be called the beginning of the present Reforms. Take the declaration of 1917—thank God, the person who was the author of that declaration is dead; he would commit suicide if he were alive. Take the present Government of India Act, the Act of 1919, which is now in force, then the Simon Commission, then the Simon Report, and then the series of Round Table Conferences, and now the future Conferences, of which I am really afraid. Whatever name we may give to them—call them Joint Committees or Divided Select Committees—they are going to put us in a more awful mess than we are in at present. (Of course their shadow does not fall on me. Nobody is going to pay my passage to England, least of all myself, because I cannot afford it.) At every stage we see on the part of the British Government an attempt to wriggle out of the Declaration of 1917. Are we to be a party to their escape from their attitude of 1917? Hark at Sir Samuel Hoare himself. What did he say at the Third Round Table Conference? What does he say now in the House of Commons? I quote these extracts as examples of the way in which they try to escape out of the definite attitude taken in 1917. This is what Sir Samuel Hoare said at the Third Round Table Conference:

"The safeguards are not intended to obstruct a real transfer of responsible power. They are not intended to impede the day to day administration of any Indian Minister. They are rather ultimate controls that we hope will never need to be exercised."

Here is something worse. The other day, in the House of Commons, he said:

"The safeguards are not paper safeguards and, if necessary, they can be carried into effect."

[U. Kyaw Myint.]

Sir, I have followed in the press the reports of two debates, one in the House of Commons and the other in the Council of State. I have followed also, in great agony, for three days the course of the debate in this House. In the House of Commons, Sir Samuel Hoare and his colleagues were defending the White Paper as against the attacks of Mr. Winston Churchill and men of that ilk. Here the Government of India have chosen, perhaps wisely, not to defend the White Paper, and the only person who has attempted to defend it from the point of view of the Government or of the ruling nation is my Honourable friend, Mr. James. How can I agree with Mr. James? Mr. James's mind is the mind of a member of the ruling race. He is not sitting on the Treasury Benches, but his mind is never very far from the mind of my Honourable friends on the Treasury Benches. How can I ever agree with him? What is the idea underlying the White Paper? It is not how much Great Britain *can give* to India, but how much she can *withhold* from India. That is the idea.

Sir, an Honourable gentleman who has preceded me has already said that the Federation outlined in the White Paper is not the Federation that we were so enthusiastic about at the end of the First Round Table Conference. I agree with him. The Federation has been hedged round with so many impossible things—safeguards, rights of minorities, rights of Princes and rights of other classes—that it is not worth the paper on which it is described. And I give this as my considered opinion: Taking the White Paper at its face value (and I cannot think of any other way of taking it), all the probabilities are against the formation of the Federation itself, and I think we shall have to reconsider our position as regards the Federation—not only the Province of Burma, which has not yet made up her mind, but all the other provinces as well. Is entry into the Federation, as it is outlined in the White Paper, worth while for any part of British India? Sir, Burma will have to make up her mind one way or the other before the next month is out. For the information of the House, I may mention that on the 25th April there is to be a special Session of the Burma Legislative Council. I really do not know what the reaction in Burma is to the White Paper. It may be that, because Burma has been mentioned only in a foot-note, the people of Burma have not given to the White Paper the careful consideration that the Indian public has given it.

I have intervened at the very end of this debate only because I feel I must make an emphatic protest against the tone of moderation indulged in by every Honourable Member who had addressed the House. I have given my impression of the idea of the British Government in formulating this White Paper. The British Government and I will never agree: I do not suppose they will care, but we shall never agree. (Applause.)

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): I think the debate must now close. Does the Honourable Member, Mr. Amar Nath Dutt, want his amendment to be put to the vote?

**Mr. Amar Nath Dutt:** No, Sir.

**Mr. N. R. Gunjal:** May I repeat my suggestion, Sir?

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Have Government got to say anything about the suggestion of Mr. Gunjal?

**The Honourable Sir Brojendra Mitter**: The suggestion of Mr. Gunjal, as I understood it, is this: that tomorrow may be devoted to the continuation of the present debate instead of Resolutions. That is a matter which is not in our hands. If Members, who have got Resolutions for tomorrow, agree to give up their Resolutions and go on with the present debate, then the Government have no objection to that course.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): So far as the Chair is concerned, it would not be possible to make that alteration at present. The Chair would certainly have no objection if the House as a whole and every Honourable Member, who has drawn a place in the ballot, agree, but the Chair finds that some Honourable Members, who have drawn a place in the ballot for tomorrow, are not even present in the House, and, without their consent and the consent of the whole House, the Chair cannot alter the agenda, especially in view of the fact that places are secured as a result of a ballot.

**Mr. S. C. Mitra**: Those who are not here, I think, it is their own fault and because they are not present they cannot withdraw.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Those who are not here are not expected to know that at six o'clock on the previous day they will be asked to forgo their right to move their Resolutions.

**Sir Hari Singh Gour**: Sir, some of them are here and early in the day I was consulted about this question and I sounded the Honourable Members, but I found that some of them were not prepared to waive their rights.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Under these circumstances, the Chair cannot help. The Chair, within the three days limit at its disposal, tried its very best to see that every section of the House was represented in this debate. The original question was:

"That the White Paper containing the proposals for Indian Constitutional Reform be taken into consideration."

Since which an amendment has been moved:

"That for the original motion, the following be substituted:

This Assembly requests the Governor General in Council to convey to His Majesty's Government that, in the opinion of this Assembly, unless the proposals of His Majesty's Government for Indian Constitutional Reform are substantially amended in the direction of conceding greater responsibility and freedom of action to the representatives of the people in the Central and Provincial spheres of Government, it will not be possible to ensure peace, contentment or progress of the country."

The question is that this substitution be made for the original proposition.

The motion was adopted.

**Mr. President**, (The Honourable Mr. R. K. Shanmukham Chetty):  
The question is:

"This Assembly requests the Governor General in Council to convey to His Majesty's Government that, in the opinion of this Assembly, unless the proposals of His Majesty's Government for Indian Constitutional Reform are substantially amended in the direction of conceding greater responsibility and freedom of action to the representatives of the people in the Central and Provincial spheres of Government, it will not be possible to ensure peace, contentment or progress of the country."

The motion was adopted.

**Sir Hari Singh Gour**: Mr. President, will it be recorded in the proceedings of the House that this was unanimously passed—nobody said "No"?

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty):  
It will be recorded in the proceedings of the House in the usual way in which decisions of the House are recorded and no departure will be made in this case

The Assembly then adjourned till Eleven of the Clock on Saturday, the 1st April, 1933.

## LEGISLATIVE ASSEMBLY.

*Saturday, 1st April, 1933.*

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) in the Chair.

### QUESTIONS AND ANSWERS.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Mr. M. Maswood Ahmad. Question No. 1022.

(The Honourable Member was not present in his seat, and Khan Bahadur Haji Wajihuddin put the question.)

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. The Chair has observed that some Honourable Members are in the habit of sending a string of questions and are not in their places when those questions are asked. The Chair strongly deprecates such practice, and it has now decided that if an Honourable Member who has sent questions is not in a position to be present in his seat to ask his questions, he must authorise some other Honourable Member in writing to do so, and the authorisation must be sent to the President. In the absence of such authorisation, these questions will be treated as unstarred questions and the answers will be incorporated in the proceedings.

†1022\*—1054\*.

### FIRST CLASS HAJ PILGRIMS COMPELLED TO TRAVEL IN THIRD CLASS ON PILGRIM SHIPS.

1055. **\*Mr. M. Maswood Ahmad:** Are Government aware that last year some first class passengers (Haj pilgrims) were compelled to travel in the third class in pilgrim ships and were afterwards compelled to commit in writing that they would not claim back any refund of the excess paid by them nor would they complain of any inconvenience? If so, are Government prepared to see that such a practice is not repeated in future?

**Mr. G. S. Bajpai:** It is correct that last year some first class pilgrims travelled as deck passengers by the first available boat instead of waiting at Jeddah for higher class accommodation to which their tickets entitled them in later boats. Government have no information as to whether these pilgrims were required to give a written guarantee that they would not claim the difference between the cost of the return half of their ticket and the cost of a deck passage.

†For these questions and answers thereto, see pages 2990—3011.



## COMFORTS PROVIDED IN SHIPS OTHER THAN PILGRIM SHIPS.

1056. \***Mr. M. Maswood Ahmad:** Has it been brought to the notice of the Government of India that the pilgrims, who were driven to sail back in other ships from Jeddah last year, enjoyed far more convenience and comforts than those which are provided in the ordinary pilgrim ships? If so, have Government taken any step to improve the situation in the ships patronised by them?

**Mr. G. S. Bajpai:** Government have no information as to the degree of comfort enjoyed on the voyage by pilgrims who returned to India last year by ships other than those of the Mogul Line. As regards the second part of the question, Government do not patronise the ships of any Company engaged in pilgrim traffic.

**Mr. M. Maswood Ahmad:** Is it a fact that when a few pilgrims came by some other boat than the one belonging to Turner Morrison & Co., Government issued notice to prosecute the shipowners for bringing those pilgrims from Jeddah?

**Mr. G. S. Bajpai:** Some pilgrims did come by a German line, and objection was taken to their having come by that line, because the ship did not comply with the ordinary regulations for the carriage of passenger traffic, but Government do not propose to prosecute any one, because the shipping people concerned have expressed regret for their action.

**Mr. M. Maswood Ahmad:** Is it a fact that Government allow other shipping companies to bring back pilgrims from Jeddah in this season?

**Mr. G. S. Bajpai:** The position is that Government have no hand in this matter. Any shipping company which is prepared to comply with the relevant rules and regulations is at liberty to engage itself in this traffic.

**Mr. M. Maswood Ahmad:** Is it a fact that Government want to discourage the Haj?

**Mr. G. S. Bajpai:** Most certainly not.

## ALLEGATIONS AGAINST A SHIPPING COMPANY BY HAJ PILGRIMS.

1057. \***Mr. M. Maswood Ahmad:** Has the attention of Government been drawn to an article in the *Inqilab*, dated the 27th July, 1932, wherein a pilgrim was reported to have been killed by the criminal negligence of the shipping company and that the loss of an imbecile woman was attributed to the sheer rude and unsympathetic treatment of the same? If so, have Government taken any step to inquire into the matter in order to verify the said reports and to punish the offenders? If not, why not?

**Mr. G. S. Bajpai:** Government have not seen this article. They will try to obtain a copy and then make such enquiries as may be considered necessary.

**GOVERNMENT ORDERS TO THE SHIPPING COMPANIES DISALLOWING THEM TO GRANT CONCESSIONS TO HAJ PILGRIMS.**

1058. **\*Mr. M. Maswood Ahmad:** (a) Is it a fact that Government have issued orders to shipping companies disallowing them to grant any concession to any pilgrim?

(b) If so, what is the reason for issuing such orders?

(c) Will Government be pleased to declare their policy in this matter?

(d) Will Government be pleased to lay a copy of the orders referred to in part (a) on the table of the House?

**Mr. G. S. Bajpai:** (a) No such orders have been issued by Government.

(b), (c) and (d). Do not arise.

**ISSUE OF RETURN CONCESSION TICKETS TO HAJ PILGRIMS ON INDIAN RAILWAYS.**

1059. **\*Mr. M. Maswood Ahmad:** (a) Is it a fact that certain Indian Railways issue return concession tickets to all passengers on the occasion of the Christmas, Puja, Easter and Moharram Holidays?

(b) Is it also a fact that such concession tickets are not issued to the Haj pilgrims during the Haj season?

(c) If the replies to (a) and (b) above be in the affirmative, are Government prepared to consider the desirability of issuing return concession tickets to the Haj pilgrims?

**Mr. P. R. Rau:** (a) Yes.

(b) Yes.

(c) I would refer the Honourable Member to the reply given to his starred question No. 1127, on the 25th March, 1931.

**Mr. M. Maswood Ahmad:** As the time is very short, will the Honourable Member please repeat the reply to which he has referred.

**Mr. P. R. Rau:** I shall be very pleased to do so. The reply was that the matter was carefully investigated in connection with a recommendation made by the Haj Enquiry Committee, and it was found that no reduction could possibly so stimulate the traffic as to avoid loss to the railways.

**Mr. M. Maswood Ahmad:** Will Government be pleased to state the reasons why it was not possible?

**Mr. P. R. Rau:** I am afraid, the Honourable Member did not catch what I just read. It was not possible because it was found that no reduction could possibly so stimulate the traffic as to avoid loss to the railways.

**Mr. M. Maswood Ahmad:** Is it a fact that eight-monthly tickets were issued two years ago on State-managed Railways, and are Government prepared to order the issue of the same class of return tickets again?

**Mr. P. R. Rau:** These return tickets have been, I think, abolished recently, because it was found that the number of passengers who were attracted to the railways by the issue of these return tickets did not justify the loss consequent on these reduced fares.

**Mr. M. Maswood Ahmad:** Are Government prepared to place these facts before the Central Advisory Committee for Railways and take their views on this subject?

**Mr. P. R. Rau:** It is a question which can very well be taken up by the Local Advisory Committees.

**ISSUE OF UNSTAMPED POLICIES BY THE VENUS ASSURANCE COMPANY,  
LIMITED, DELHI.**

1060. **\*Mr. M. Maswood Ahmad:** Is it a fact that the Venus Assurance Company, Ltd., Delhi, issued policies under "Free Insurance Co-operative Benefit Scheme" without affixing any stamp thereon?

(b) Is it a fact that this matter was brought to the notice of local authorities by L. Kunj Behari Lal Saxena, Honorary Secretary of the Venus Policy Holders Association, when he forwarded three unstamped policies to the authorities (one of them being 52577)?

(c) Is it a fact that the Company was asked to pay annas six as proper stamp duty for each policy, and annas eight as penalty, levied on each of the three infringements, and that the Company credited the same into the Delhi Treasury on the 12th November, 1932?

(d) Will Government please state what was the actual number of policies issued by the said Company without affixing stamps, and if the Company has been asked to stamp them properly, and whether or not any penalty has been charged for policies other than the three forwarded by Mr. Kunj Behari Lal Saxena?

(e) Are Government aware that about 60,000 policies have been issued unstamped? What action, if any, have Government taken against the officials of the said Company, and what amounts in all have been realised from the said Company as stamp duties and as penalties?

**The Honourable Sir George Schuster:** (a) The Venus Assurance Company, Limited, Delhi, issued Certificates of Membership without affixing any stamp thereon.

(b) Yes.

(c) Yes. The actual amount of stamp duty imposed was Rs. 2-2-0 and penalty Re. 1.

(d) and (e). Government are not aware of the actual number of Certificates issued by the Company. The Company has been asked to withdraw and stamp all such Certificates, and inform the Collector when this has been done. No penalty has been levied on any of the Certificates except the three sent by L. Kunj Behari Lal.

**Mr. M. Maswood Ahmad:** What was the reply to part (e), may I know?

**The Honourable Sir George Schuster:** I answered that question. I said, (d) and (e) Government are not aware of the actual number of Certificates issued by the Company. The Company has been asked to withdraw and stamp all such Certificates, and inform the Collector when this has been done. No penalty has been levied on any of the Certificates except the three sent by L. Kunj Behari Lal.

**Mr. M. Maswood Ahmad:** Did Government make any attempt to know the real number of Certificates issued?

**The Honourable Sir George Schuster:** Government have asked the Company to withdraw and stamp all the Certificates. That is the position.

†1061\*—1063\*.

**DIFFERENT RATES CONTRACTED FOR BY THE INDIAN STORES DEPARTMENT FOR THE SUPPLY OF THE SAME ARTICLES BY THE SAME FIRM.**

1064. **\*Mr. S. O. Mitra:** (a) Has the attention of Government been drawn to pages 255 and 256 of the *Trade Journal* of the 26th January, 1933, where, against items Nos. 1 and 2 of tender No. M.-2135 of the Indian Stores Department, two different rates have been published against each of the two items? If so, will Government be pleased to state the reasons how for each of the two items the Indian Stores Department entered into contract with the same firm at two different rates, one being higher than the other?

(b) If the Government are not aware of the publication of the two different rates in the *Trade Journal*, will they be pleased to enquire into the matter and state the reasons of such publication of different rates contracted for by the Indian Stores Department for the supply of the same articles by the same firm?

**The Honourable Sir Frank Noyce:** (a) In the notification referred to on page 256 of the *Indian Trade Journal*, issue of 26th January, 1933, the contracts, owing to a printer's error, were stated to be Rate Contracts, whereas they were in fact Running Contracts. The error was detected and a corrigendum was published in the *Indian Trade Journal* of the 2nd March, 1933. The differences in rates referred to by the Honourable Member were due to the different obligations devolving on the contractor under the different conditions of contract.

(b) Does not arise.

**Mr. S. O. Mitra:** What is this difference between Rate Contract and Running Contract? Will you please explain?

**The Honourable Sir Frank Noyce:** Broadly speaking, the difference is due to the fact that Rate Contracts specify no quantity, whereas Running Contracts do. It is a very technical subject, and if the Honourable Member is interested in it, I shall be very glad to explain it to him personally.

**Mr. S. O. Mitra:** Thank you.

**DETENTION OF CERTAIN BENGALIS AS STATE PRISONERS UNDER REGULATION  
III OF 1818 IN THE TRICHINOPOLY JAIL.**

1065. \***Mr. S. O. Mitra:** (a) Is it a fact that Messrs. Suren Ghosh, Jiban Chatterjee and Pratul Ganguly, Bengal State Prisoners, are being detained under Regulation III for the past one year and a half in the Trichinopoly Jail?

(b) Is it a fact that all the three prisoners are showing signs of reduction in weight?

(c) Is it a fact that Mr. Chatterjee has been declared to be suffering from T. B.?

(d) If so, do Government propose to transfer them to some other jail in a place with temperate climate?

(e) Is it a fact that the daily allowance of these said prisoners has been reduced by 50 per cent.?

(f) If so, are Government aware that the allowance of Rs. 1-4-0, per diem that has been sanctioned, is not sufficient to cover their daily expenses?

(g) If not, do they propose to enquire into the matter? If not, why not?

(h) Is it a fact that on the 9th March Messrs. Ghosh and Chatterjee were suddenly transferred to Rajahmundry Jail?

(i) If so, will Government be pleased to state the reasons therefor?

**The Honourable Sir Harry Haig:** (a) Yes.

(b) No.

(c) No.

(d) Does not arise.

(e), (f) and (g). I would refer the Honourable Member to the replies given by me to his questions Nos. 257 and 517 in this House on the 8th and 25th February last, respectively.

(h) and (i). Government are not prepared to state reasons for transfer of prisoners.

**TRANSFER OF MR. B. K. DUTT OF THE ASSEMBLY BOMB CASE TO THE  
ANDAMANS.**

1066. \***Mr. S. O. Mitra:** (a) Is it a fact that Mr. B. K. Dutt of the Assembly Bomb Case has been transferred to the Andamans while he was seriously suffering from dysentery?

(b) Will Government be pleased to state what arrangements were made for medical aid during Mr. Dutt's transfer from Rajahmundry Jail to the Andamans?

**The Honourable Sir Harry Haig:** (a) No. The prisoner recovered from dysentery on the 20th December, and was not transferred to the Andamans till the 20th January. He was absolutely free from illness during the intervening period.

(b) No special medical aid was required beyond that which is ordinarily provided on Andamans steamers.

(Mr. President then called on Sardar Sant Singh to put his question No. 1067.)

**Mr. Lalchand Navalrai:** May I put that question on behalf of Sardar Sant Singh?

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): It cannot be asked.

**Mr. C. S. Ranga Iyer:** Sir, as your ruling was given today, may I request that this ruling may come into force from tomorrow so that Members, not present, who had not practised what you said they should, that is to say, give notice in writing, may know your ruling and act accordingly?

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Of course, the ruling given by the Chair is not really a new thing, because, according to the Rules and Standing Orders, when an Honourable Member who has put down a question is absent and if another Honourable Member wants to ask that question on his behalf, that can only be done with the permission of the President. The Chair has no doubt, Honourable Members will realise that it is very unfair both for Government and for other non-official Members that one Honourable Member should send a string of questions and not be present in his seat. But if it is the feeling that Honourable Members should have notice of this new practice, the Chair has no objection to allow for today only questions put down by one Honourable Member to be asked by some other Honourable Member, in which case the Chair will have to go back to the old questions and allow other Honourable Members to put the questions on behalf of the Members who originally tabled them.

**Mr. Lalchand Navalrai:** I thank the Chair for its ruling. No. 1067.

#### STANDARDISATION OF TWO QUALITIES OF BLACK PAINT BY THE INDIAN STORES DEPARTMENT.

1067. **\*Mr. Lalchand Navalrai** (on behalf of Sardar Sant Singh): (a) Is it a fact that the Indian Stores Department standardised two qualities of black paint, *vide* specification, No. G. P. O.-120, to contain 20 per cent. lamp black and No. G. P. O.-120/1, substitute to 20 per cent. lamp black to contain 3 per cent. carbon black?

(b) Is it a fact that for any good quality of black paint the percentage of lamp black, as specified by the Indian Stores Department, should be not less than 20 per cent. lamp black?

(c) Will Government be pleased to state what is the percentage of carbon black or Loss on ignition in the "Muraco Black"?

**The Honourable Sir Frank Noyce:** Information is being collected and will be laid on the table in due course.

#### PAINTS USED BY THE EASTERN BENGAL RAILWAY FOR PAINTING THEIR WAGONS.

1068. **\*Mr. Lalchand Navalrai** (on behalf of Sardar Sant Singh): (a) Is it a fact that at present the Eastern Bengal Railway uses ready mixed 3 per cent. carbon black paint from Messrs. Jenson and Nicholson for painting their wagons?

(b) Is it a fact that a sample from the supplies of ready mixed black paint was tested by the Government Test House which found the sample to be 3 per cent. carbon black, *vide* certificate No. 721-C.?

(c) Are Government aware that an indigenous black paint "Muraco Black" was experimented by the Eastern Bengal Railway authorities and found to be quite satisfactory and more economical than the paint now in use?

(d) Is it a fact that orders for ready mixed 3 per cent. carbon black paint were not placed after consultation with the Indian Stores Department and that no public tenders were called for before placing the orders to this English firm?

(e) Is it not a fact that, as the result of test by the Eastern Bengal Railway, in November, 1932, the "Muraco Black" was found cheaper by Rs. 2 per wagon for painting only the four outer sides of a wagon?

(f) Is it a fact that the Eastern Bengal Railway, in 1930, prepared a panel painted with "Muraco Black" and put it under the exposure test, and that it is still wearing well and the plate is in a very fair condition?

(g) Will Government be pleased to state the saving in each wagon if a wagon is completely painted with "Muraco Black"?

(h) What will be the total saving in money if "Muraco Black" is substituted for the more costly paint at present used by the Eastern Bengal Railway?

(i) Will Government please explain why orders were placed with the English firm without calling for any tender and why even now the order is not displaced by other cheaper and more satisfactory article?

**Mr. P. R. Rau:** I will reply this and the next question together. I have called for information and on receipt will lay a reply on the table.

#### "MURACO BLACK" PAINT USED ON THE EAST INDIAN RAILWAY.

†1069. **\*Mr. Lalchand Navalrai** (on behalf of Sardar Sant Singh): (a) Is it a fact that "Muraco Black", an indigenous black paint for wagons, manufactured by Messrs. Murarka Paint and Varnish Works, Ltd., was awarded a certificate No. 195-C. on the 17th April, 1930?

(b) Is it a fact that the East Indian Railway found "Muraco Black" for wagon painting suitable for spraying, dipping as well as brush work and for hard drying in about four hours?

(c) Is it a fact that the East Indian Railway found "Muraco Black" on an exposure test with only one single coat on the bare steel plate without any priming paint to last satisfactorily for two years and six months and reported to have stood the exposure test very well?

(d) Is it a fact that practical physical test of "Muraco Black" was held by Mr. Campbell, the Assistant Works Manager and the paint Foreman, Lillooah Workshop in the presence of the manufacturers; and is it a fact that the Deputy C. M. E., Lillooah, found that 4th ounce of "Muraco Black" covers the same space of the plate as 9/8th ounce of the present supply of Indian Stores Department Standard Quality 20 per cent. lamp black purchased by the Indian Stores Department for the East Indian Railway?

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†For answer to this question, see answer to question No. 1068.

(e) Is it a fact that with 25 gallons of "Muraco Black" 14 covered and 10 high side uncovered wagons were painted while with the same quantity of black paint from Messrs. Jenson and Nicholson, Shalimar Paint and Varnish Co., Ltd., and also Indian Stores Department Standard Quality 20 per cent. lamp Black only eleven covered wagons could be painted?

(f) Is it a fact that the Deputy C. M. E. Lillooah, in March, 1933 inspected three of the eight wagons painted with "Muraco Black" in January, 1931, after a run on traffic for over two years and found the paint on them satisfactory and affording sufficient protection to the wagons from rust?

(g) Is it a fact that all these three wagons returned after two years' run on traffic for inspection have again been sent out for further one year's run on traffic without repainting?

(h) Will Government be pleased to state whether the Indian Stores Department Quality 20 per cent. lamp black and 3 per cent. carbon black were put to an exposure test by actual run on traffic; if so, will Government lay the report on the table?

(i) Is it a fact that the use of indigenous paint "Muraco Black" will save much money of the Railways?

#### FORMATION OF SERVICE UNIONS ON COMMUNAL LINES.

1070. \***Bhai Parma Nand:** (a) Is it a fact that after the formation of unrecognised communal Muslim Union from the ranks of Postal employees in 1931, the then Director-General had issued a circular and a manifesto in the following words:

"The greatest evil of a communal union is that it must inevitably tend to foster the communal spirit. The higher an official rises in the Department, the more responsibility he has to shoulder and the more men he has to control. If such an official is known to be a member of a communal association, is it humanly possible for him to command in his subordinates the same confidence and respect as he could do if he were known to belong to a union which has at heart the welfare of all without distinction of caste, creed or community"?

(b) Do Government mean to accentuate communal bitterness in Government services too?

(c) Is it a fact that the appointment clerk in the Delhi General Post Office makes all the arrangements for appointments, transfers and leave, etc., for the officials working in the Delhi General Post Office and its town sub-offices under the signature of the Postmaster, Delhi, and that the said clerk also deals with the appeals in connection with the said arrangements? If so, are Government aware of the fact that the appointments clerk, Delhi General Post Office, is the organiser and General Secretary of the All-India Muslim Posts and Telegraphs Union?

(d) What steps do Government propose to take in the matter?

**The Honourable Sir Frank Noyce:** (a) Yes.

(b) No.

(c) and (d). The Honourable Member appears to be under a misimpression. The so-called appointment clerk—the designation has been abolished to prevent such misunderstandings—has no independent power of action, and the questions therefore do not arise.



**DETAILING OF CERTAIN POSTAL OFFICIALS IN DELHI TO DUTIES ON SUNDAYS.**

1071. **\*Bhai Parma Nand:** (a) Is it a fact that the Treasurer of the Delhi Provincial Muslim Union and Assistant Secretary, Muslim Relief Fund, and other members of the Muslim Union were not detailed for a long period on Sunday duties while other officials were regularly called for?

(b) Is it also a fact that this was brought to the notice of the Postmaster, Delhi?

(c) If the reply to part (b) be in the affirmative, will Government be pleased to state what action was taken by the Postmaster, Delhi? If not, why not?

(d) Are Government prepared to take necessary action to observe equality and justice in detailing the officials on Sundays?

**The Honourable Sir Frank Noyce:** (a) to (d). Government have no information. The matter is within the competence of the head of the postal circle concerned to whom a copy of the question is being sent.

**APPLICATION OF RULES FOR COMMUNAL REPRESENTATION IN THE GOVERNMENT OF INDIA PRESSES.**

1072. **\*Bhai Parma Nand:** With reference to his reply to question No. 681 (a), given on the 7th March, 1933, will the Honourable Member in Charge of the Department of Industries and Labour, be pleased to state if it is a fact that as per letter No. A.-631, dated the 2nd March, 1929, of his Department, it was decided that the procedure laid down for recruitment to clerical establishment in the Government of India Presses should be adopted in making recruitment of the industrial staff as well? If so, is the reply given by him that the rules for communal representation apply to clerical appointments only, correct?

**The Honourable Sir Frank Noyce:** The answer to the first part is in the affirmative. My reply to the Honourable Member's starred question No. 681 (a) did not say that the rules regarding communal representation applied to clerical appointments only but that the instructions issued by the Controller of Printing on the 7th October, 1930, referred to clerical appointments.

**STOPPAGE OF THE RECRUITMENT OF HINDUS IN THE CLERICAL STAFF OF THE GOVERNMENT OF INDIA PRESS, NEW DELHI.**

1073. **\*Bhai Parma Nand:** (a) With reference to his reply to question No. 682, given on the 7th March, 1933, will the Honourable Member in Charge of the Department of Industries and Labour kindly place a copy of the instructions issued by the Controller of Printing on the table?

(b) Is it a fact that the Controller reported to the Government that the orders for reserving one-third vacancies for minority communities were rigidly observed in the Government of India Press, New Delhi?

(c) Is it a fact that the Controller in his instructions did not say that the recruitment to the next two or three clerical vacancies should be made from the minority communities, but gave strict orders to stop entirely the fresh recruitment of Hindus until a certain percentage was obtained for the minority communities? Are these instructions in conformity with the procedure prescribed by the Government?

**The Honourable Sir Frank Noyce:** (a) Government do not propose to lay a copy of the instructions on the table.

(b) Yes.

(c) The instructions were in the form indicated by the Honourable Member but the Controller reported that they were in effect as I stated in my previous reply. I informed the Honourable Member on 7th March that the order did not seem to be entirely in conformity with the procedure prescribed by Government and it is being cancelled.

**APPOINTMENTS MADE IN THE GOVERNMENT OF INDIA PRESS, NEW DELHI.**

**1074. \*Bhai Parma Nand:** With reference to his reply to question No. 684, dated the 7th March, 1933 will the Honourable Member in Charge of the Department of Industries and Labour kindly give the following information :

- (a) In which year did the last reduction of compositors take place in the Government of India Press, New Delhi?
- (b) Were any of the compositors appointed in 1933, brought under reduction owing to the extensive reorganisation and considerable retrenchment referred to by the Honourable Member? If so, how many?
- (c) Were all the Moslems, Sikhs and Christians appointed in 1930-31 retrenched hands? If not, how many were retrenched hands?
- (d) Are there any Government orders to the effect that in re-employing retrenched hands it is not necessary to take communal representation into account even though it may create a preponderance of any one community in the establishment of any one particular Department or office by re-employing men of one particular community?
- (e) Is it a fact that the Manager of the Government of India Press, New Delhi, has not recruited members of that community into the industrial staff?
- (f) Will Government be pleased to give the number of new appointments made communitywise in the sanctioned industrial establishment since the present Manager took charge of the Press, each class of appointment being shown separately?

**The Honourable Sir Frank Noyce:** (a) In 1923.

(b) Yes: Three.

(c) No: Two.

(d) No.

(e) It is not clear which community the Honourable Member is referring to; recruitment has been made from all the leading communities.

(f) A statement is laid on the table.

*Statement showing appointments made on the sanctioned Industrial Establishment, Delhi Press, from March 1927.*

Class of appointment.	Hindus.	Moslems.	Christians.	Sikhs.
Compositors . . . . .	5*	14*	..	1
Distributors . . . . .	1	2*	..	..
Warehousemen . . . . .	2	4	2	..
Roller Moulder . . . . .	..	..	1*	..
Mechanic . . . . .	1*	..	..	..
Carpenter . . . . .	..	1	..	..
Fly-boys . . . . .	1	3	..	..
Mono Operator . . . . .	..	1	..	..
Pressmen . . . . .	..	1*	..	..
Copyholders . . . . .	5†	..	1	1
Assistant Stereotyper . . . . .	1	..	..	..
Type Supplier . . . . .	1*	..	..	..
Paper Supplier . . . . .	..	..	1	..
Labourers . . . . .	8	9	1	..
Total . . . . .	25	35	6	2

\*Retrenched hands.

†One Retrenched hand.

Government of India orders relating to measures to be adopted for communal representations in the Industrial staff of Government of India Presses had effect from March 1929.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): I will now come to question No. 1022.

**ADDITIONAL { DUTIES UNDERTAKEN BY THE STENOGRAPHER OF THE SUPERINTENDENT OF EDUCATION, DELHI, AJMER-MERWARA AND CENTRAL INDIA.**

1022. \***Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad):

(a) In connection with the reply to my starred question No. 238 (a) (iii), given on the 7th February, 1933, will Government kindly state:

- (i) if it is a fact that the stenographer of the Superintendent of Education, Delhi, Ajmer-Merwara and Central India, worked as Registrar and tabulator of the examination conducted by the Head Masters' Association, Delhi, in 1932, after his appointment as stenographer;
- (ii) if it is a fact that the said stenographer received Rs. 180 as honorarium from the Head Masters' Association, Delhi, in 1932, for the work in connection with their examination?
- (iii) whether the Superintendent of Education enquired from his stenographer or from the Head Masters' Association about the facts asked by me in my question referred to above?

(b) Will Government kindly state if it is a fact that the stenographer of the Superintendent of Education compiled the General Educational Tables of the Central India Agency in 1932 in addition to his duties and received a sum of Rs. 90 from Government for that work? Is it also a fact that the payment of this sum was made by the Superintendent of Education himself?

(c) Is it a fact that the said stenographer was also an examiner of the Commercial Diploma Examination of the Commercial Institute, Delhi, which is a Government institution, in the year 1932, and that this examination was conducted by the Superintendent of Education himself?

(d) If the replies to parts (a), (b) and (c) above be in the affirmative, will Government kindly state whether the Superintendent of Education was aware of these additional duties which his stenographer had undertaken when the question referred to in part (a) above was asked? If so, will Government kindly state why these duties were not mentioned in the reply to part (b) of starred question No. 238?

**Mr. G. S. Bajpai:** (a) (i). The stenographer did not act as Registrar of the examination referred to by the Honourable Member. As regards acting as 'Tabulator', the Honourable Member's attention is invited to the reply given to clause (iv) of part (a) of his question No. 238 on the 7th February, 1933.

(ii) and (iii). Yes.

(b) The stenographer received an honorarium of Rs. 50 under the orders of the Honourable the Agent to the Governor General in Central India in connection with the compilation of the General Educational Tables.

(c) Yes, but this examination is not conducted by the Superintendent of Education..

(d) Part (b) of Honourable Member's question No. 238 was understood to relate to "duties" and not to odd jobs.

**Mr. Gaya Prasad Singh:** Is this stenographer, who has been the victim of communal fury, a Hindu?

**Mr. G. S. Bajpai:** Sir, I do not subscribe to the suggestion that the stenographer has been the victim of any particular feeling, but he is a Hindu.

**ADDITIONAL DUTIES UNDERTAKEN BY THE STENOGRAPHER OF THE SUPERINTENDENT OF EDUCATION, DELHI, AJMER-MERWARA AND CENTRAL INDIA.**

1023. **\*Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad):

(a) Is it a fact that the stenographer of the Superintendent of Education, Delhi, is a whole-time Government servant?

(b) If the reply to part (a) above be in the affirmative, will Government kindly state if it is a fact that under the Supplementary Rules of the Fundamental Rules framed by the Government of India, a whole-time Government servant cannot undertake any work from a private body on any remuneration or otherwise without the permission of the officer to whom he is subordinate?

(c) Did the stenographer obtain any permission from the Superintendent of Education who is his immediate officer for his private undertakings?

(d) If the reply to part (c) above be in the affirmative, will Government kindly state why the facts were not mentioned by Government in reply to my starred question No. 238 on the 7th February, 1933?

(e) If the reply to part (c) above be in the negative, do Government propose to take any disciplinary measures against the Government servant?

**Mr. G. S. Bajpai:** (a), (b) and (g). Yes.

(d) The Honourable Member is referred to the previous question.

(e) Does not arise.

**Mr. Gaya Prasad Singh:** Is it not a fact that some employees of the Government of India visit many Honourable Members and write out their questions and speeches?

**Mr. G. S. Bajpai:** I am not in a position to answer that question.

**Dr. Ziauddin Ahmad:** Is the Secretary of the Nationalist Party one of them?

**Mr. Gaya Prasad Singh:** I see my remark has gone home!

**Mr. Muhammad Anwar-ul-Azim:** I want answers only to questions Nos. 1024 and 1042. Question 1024.

#### FRAUDS COMMITTED IN THE QUETTA POST OFFICE.

1024. **\*Mr. Muhammad Anwar-ul-Azim:** (a) Is it a fact that frauds committed in the Quetta Post Office are concealed and that the Government and the public defrauded?

(b) Is it a fact that a case of using used postage stamps on telegrams occurred in the Quetta H. O.?

(c) Will Government please state whether this case was reported to the police by the Postmaster, Quetta? If not, why not?

(d) Is it a fact that the Director-General's orders are that persons concerned in the case should not deal with that case?

(e) Is it a fact that the case was not made over to the Town Inspector, Quetta, for investigation nor was reported to the police?

**Sir Thomas Ryan:** (a) No.

(b) Yes.

(c) and (e). Information has been called for and will be laid on the table in due course.

(d) Yes.

(Mr. President called on Mr. Muhammad Anwar-ul-Azim to put his question No. 1025.)

**Mr. Muhammad Anwar-ul-Azim:** On a point of information, Sir. I think it is laid down in the Standing Orders that only those questions, to which the Honourable Member putting them, wants answers on the floor of the House, should be put and not others. As such, I have said that I want the replies only to questions Nos. 1024 and 1042.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Honourable Member does not want to ask the other questions?

**Mr. Muhammad Anwar-ul-Azim:** That is so.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Chair is not prepared to say just now whether the point mentioned by the Honourable Member is correct or not according to the Rules and Standing

Orders. But whatever may be the rules and Standing Orders on the point, it is for Honourable Members to decide whether they would involve the respective offices concerned in the laborious task of arranging these questions and having their answers prepared if it was the intention of Honourable Members not to ask them on the floor of the House.

**Mr. Muhammad Anwar-ul-Azim:** I think these things ought to be made very clear here. An Honourable Member may have put the questions on a particular day and, during the period that elapses before the answers are given on the floor of this House, the doubts that he had may have been cleared with the result that there may be no necessity for him to put the questions here,

**Dr. Ziauddin Ahmad:** Is it not open to an Honourable Member to withdraw his questions at any time he likes and to transfer them from starred to unstarred list?

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): An Honourable Member is at liberty to withdraw his question at any time.

**Mr. Gaya Prasad Singh:** Sir, some of the questions may contain insinuations and personal reflections. These questions are printed and advertised, and it is rather unfair to other Honourable Members and to the persons concerned against whom personal reflections are cast, that the questions are not put, and other Honourable Members are not allowed an opportunity of refuting them. The question of withdrawal is a different matter. Every Honourable Member is at liberty to withdraw his questions, but having given notice of them and having allowed them to appear in the Order Paper, not to put them at the last moment is rather unfair to the Government and to the persons concerned as well as to the House.

**Mr. S. C. Mitra:** I think my Honourable friend, Mr. Gaya Prasad Singh, is of opinion that the President has not exercised his discretion, when he admitted the questions, properly. I take it that when a question is admitted the President decides that there is no deliberate personal insinuation on the part of the questioner or any attempt to attribute any personal aspersion against any officer; and, when a question is admitted, the Honourable Member should have the right to withdraw, if he so wishes.

**Dr. Ziauddin Ahmad:** May I point out that on the last occasion several Honourable Members requested the President to treat their starred questions as unstarred questions and that the President allowed that.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Chair does not want to stand in the way of an Honourable Member who desires to withdraw his questions to do so at any particular stage. The Chair only wants to remind Honourable Members that such a contingency can happen only rarely. If, as the Honourable Member himself has pointed out, he has got satisfactory information on the points since sending in the questions, it is certainly not necessary for the Honourable Member to ask the question but the Chair would leave it to the sense of

responsibility of Honourable Members themselves whether they would rush to ask questions containing serious allegations against certain officers without first satisfying themselves whether there was any basis for asking those questions. That, the Chair would entirely leave to the sense of responsibility of Honourable Members.

**CARRIAGE OF PRIVATE LUGGAGE IN THE MAIL VANS BY CERTAIN RAILWAY MAIL SERVICE OFFICIALS.**

**1025. \*Mr. Muhammad Anwar-ul-Azim:** (a) Is it a fact that certain Railway Mail Service officials were carrying unauthorised private luggage in the mail vans thus depriving the Railway of the legal earnings?

(b) Is it a fact that no action was taken against the officials concerned by the Director beyond issuing a circular prohibiting such an illegal practice?

(c) Is it a fact that subsequent to the issue of this circular, Naraindas, Inspector, Railway Mail Service, carried private luggage in the mail van while travelling as Inspector, Railway Mail Service?

**Sir Thomas Ryan:** Government have no information. The matter is within the competence of the Director, Posts and Telegraphs, Sind and Baluchistan Circle, to whom a copy of the question and of my reply is being sent.

**CANDIDATES OF THE POSTAL CLERICAL CADRE ENTERTAINED IN THE REVENUE DIVISIONS DIFFERENT FROM THOSE OF THEIR PERMANENT RESIDENCE IN CERTAIN POSTAL CIRCLES.**

**1026. \*Mr. Muhammad Anwar-ul-Azim:** (a) Will Government be pleased to lay on the table a statement showing particulars of candidates of the postal clerical cadre who were entertained in the Revenue Divisions, different from those of their permanent residence, in the (i) Punjab, and North-West Frontier, (ii) Bengal and Assam, (iii) United Provinces, and (iv) Bombay Postal Circles? Is it not contrary to Government orders?

(b) Is it a fact that by the non-observance of orders referred to in part (a), members of the majority community and Sikhs have been unduly benefited and that Muslims have suffered?

(c) Do Government propose to order strict observance of these orders in future?

**The Honourable Sir Frank Noyce:** (a) and (b). Government regret that information is not available. If however, the Honourable Member will bring to the notice of Government any specific and properly authenticated instances of the non-observance of the orders in question, enquiries will be undertaken.

(c) The Director-General has issued orders on the subject; a copy of these orders is placed on the table. Government do not consider that any further action is required.

INDIAN POSTS AND TELEGRAPHS DEPARTMENT.

DIRECTOR-GENERAL'S GENERAL CIRCULAR No. 43.

Monday, 23rd January, 1933.

II.—LOCAL RECRUITMENT FOR SUBORDINATE SERVICES IN THE POSTS AND TELEGRAPHS DEPARTMENT.

It is hereby ordered that the instructions contained in part 1 of the Director-General's (Post Office) Circular No. 29, dated the 2nd September 1926 (reproduced below) regarding local recruitment for subordinate postal services should apply to recruitment for subordinate services in all the branches of the Posts and Telegraphs Department. The instructions should, however, be considered as laying down a general principle for observance and may be departed from at the discretion of the Head of a Circle if local conditions make this necessary, but in no case should a candidate be recruited in a Circle, who has not his domicile in that Circle.

(Es. R. 1 B.-61/32.)

T. RYAN,

Offg. Director-General of Posts and Telegraphs.

EXTRACT (PART 1) FROM THE DIRECTOR-GENERAL'S (POST OFFICE) CIRCULAR No. 29, DATED THE 2ND SEPTEMBER 1926.

*Local recruitment for subordinate postal appointments.*

On the recommendation of the Postal Conference of 1926 it has been decided by the Director-General that with effect from the 1st September 1926 future candidates joining subordinate postal service must belong to the Revenue Division in which they enlist. In the cases of cities like Bombay and Calcutta candidates belonging to the adjacent Revenue Divisions will also be eligible for appointment in such cities.

2. Any exception to the instruction given in paragraph 1 above must be referred to the Head of the Circle—Postal or Railway Mail Service—for orders.

NON-OBSERVANCE OF THE THIRD VACANCY RULE IN THE POSTS AND TELEGRAPHS DEPARTMENT.

1027. \*Mr. Muhammad Anwar-ul-Azim: (a) Will Government be pleased to lay on the table a copy of the letter dated the 30th September, 1932, regarding the non-observance of the third vacancy rule in the Posts and Telegraphs Department, addressed by seven Members of the Legislative Assembly to the Director General, Posts and Telegraphs, and a copy of the reply thereto dated the 10th November, 1932?

(b) Will Government be pleased to state whether they have discovered that the rule reserving the third vacancy to remove communal inequalities was not observed in the Posts and Telegraphs Department?

(c) Will Government be pleased to state the particulars of postal divisions and first class head offices in (i) the Punjab and North-West Frontier, (ii) Bengal and Assam, (iii) United Provinces, and (iv) Bombay Circles which failed to observe the third vacancy rule?

(d) Will Government be pleased to lay on the table the explanations of the officials responsible for non-observance of the third vacancy rule in the Simla Post Office, stating action taken thereon, as promised by the Director-General in his reply to the letter referred to in part (a) above, and as promised in reply to starred question No. 959(d) on the 8th November, 1932?



**The Honourable Sir Frank Noyce:** (a) Government are not prepared to lay on the table copies of the correspondence to which the Honourable Member refers.

(b) No. The rule is generally observed, even if a few isolated failures may have occurred. Special steps have been taken to prevent the recurrence of any failure.

(c) The latest check carried out has been that of the annual recruitment statements for the year 1931-32. The result of this check has been to show that there has been no disregard of the third vacancy rule in the divisions and the offices referred to by the Honourable Member.

(d) The matter is still under investigation.

**TRANSFER OF THE APPOINTMENT CLERK, SIMLA GENERAL POST OFFICE, AND  
RETRENCHMENT OF THE MUSLIM TOWN INSPECTOR OF SIMLA.**

1028. **\*Mr. Muhammad Anwar-ul-Azim:** (a) Is it a fact that Mohammad Shoab, appointment clerk, Simla General Post Office, was transferred at the instance of the Punjab Posts and Telegraphs Hindu Union?

(b) Is it a fact that the Muslim Town Inspector of Simla was retrenched at the instance of the Hindu Union?

**The Honourable Sir Frank Noyce:** (a) The Honourable Member is referred to the reply given to his own starred question No. 433 in this House on the 21st February, 1933.

(b) No.

**HINDU SUPERINTENDENTS OF POST OFFICES WITH HINDU HEAD CLERKS  
IN THE BENGAL AND ASSAM POSTAL CIRCLE.**

1029. **\*Mr. Muhammad Anwar-ul-Azim:** Will Government be pleased to state the number of Hindu Superintendents of Post Offices with Hindu Head Clerks in the Bengal and Assam Postal Circle?

**The Honourable Sir Frank Noyce:** The number is fourteen.

**SUPERINTENDENT OF RAILWAY MAIL SERVICE, "L" DIVISION AND HIS HEAD  
CLERK.**

1030. **\*Mr. Muhammad Anwar-ul-Azim:** Is it a fact that the Superintendent of the Railway Mail Service, "L" Division, in the Punjab Circle, is a Non-Muslim with a Non-Muslim Head Clerk?

**The Honourable Sir Frank Noyce:** The reply is in the affirmative, as regards the Superintendent. Government have no information about the Head Clerk.

**WAITING LIST OF APPROVED CANDIDATES IN THE PUNJAB AND NORTH-WEST  
FRONTIER AND BENGAL POSTAL CIRCLES.**

1031. **\*Mr. Muhammad Anwar-ul-Azim:** Is it a fact that in the Punjab and North-West Frontier and Bengal Postal Circles, predominantly Muslim in population, Hindus are in an overwhelming majority on the waiting list of approved candidates?

**The Honourable Sir Frank Noyce:** Government have no information, but I may explain that communal representation in the list of approved candidates has no bearing on actual recruitment, which is governed by the rules relating to the recruitment of members of different communities.

**ENGINEERING SUPERVISORS IN THE DELHI TELEGRAPH ENGINEERING DIVISION.**

**1032. \*Mr. Muhammad Anwar-ul-Azim:** Is it a fact that all the Engineering Supervisors (General and Telephone) to whom the line inspectors are subordinate, are all non-Muslims in the Delhi Telegraph Engineering Division?

**The Honourable Sir Frank Noyce:** The reply is in the negative.

**SUPERINTENDENT AND INSPECTOR OF POST OFFICES, JULLUNDUR.**

**1033. \*Mr. Muhammad Anwar-ul-Azim:** Is it a fact that the Superintendent of Post Offices, Jullundur, and Inspector, Post Offices, Jullundur, are both Non-Muslims?

**The Honourable Sir Frank Noyce:** Sir, with your permission, I propose to reply to questions bearing numbers 1033 and 1034 together.

The reply is in the affirmative.

**CERTAIN POSTAL EMPLOYEES IN DELHI.**

**† 1034. \*Mr. Muhammad Anwar-ul-Azim:** Is it a fact that the Superintendent, Railway Mail Service, "D" Division, Delhi Head Quarters, Inspector, Railway Mail Service, Delhi, and all the three Inspectors, Railway Mail Service, Delhi, are Non-Muslims?

**FIXATION OF A SHARE FOR EVERY COMMUNITY IN THE STRENGTH OF ESTABLISHMENT IN THE SUBORDINATE SERVICES.**

**1035. \*Mr. Muhammad Anwar-ul-Azim:** Will Government be pleased to state the approximate date by which they propose announcing their decision fixing a share of every community in the strength of establishment in the subordinate services with definite instructions how to obtain the desired results within a specified period?

**The Honourable Sir Harry Haig:** Government have under consideration the question of some modification of the orders regarding the representation of minority communities in the services under the control of the Government of India, but I am unable to state the date by which a decision will be announced.

**TENDER FOR POSTAL STAMP VENDOR AT DELHI.**

**1036. \*Mr. Muhammad Anwar-ul-Azim:** (a) Is it a fact that the tender for postal stamp vendor at Delhi by a Hindu did not comply with the provisions laid down and that this fact was brought to the notice of the Postmaster General, Punjab, by the Muslim whose tender has been rejected?

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†For answer to this question, see answer to question No. 1033.

(b) Are Government prepared to examine the tender of the Hindu and cancel the contract if it is found to be defective?

**Sir Thomas Ryan:** (a) Government have no information.

(b) No. The matter is within the competence of the Postmaster General, Punjab and North-West Frontier.

#### RETRENCHMENT OF MUSLIMS IN THE PUNJAB POSTAL CIRCLE.

1037. **\*Mr. Muhammad Anwar-ul-Azim:** (a) Is it a fact that Hindu postal employees who had been superannuated and were on extension of service were included in the list of postal employees resulting in a larger and unjustified retrenchment of Muslims in the Punjab Postal Circle?

(b) Is it a fact that Muslims with less service were retrenched retaining Hindus with longer service in the Punjab Postal Circle?

**The Honourable Sir Frank Noyce:** (a) It is presumed that the Honourable Member refers to men who have passed the age of 55; properly speaking, these are not superannuated. The retrenchment of all officials was in accordance with Government orders.

(b) Yes. In certain of the categories, laid down in the retrenchment orders, retrenchment is made by selection and not by seniority.

#### OFFICE-BEARERS OF THE ALL-INDIA (INCLUDING BURMA) POSTAL AND RAILWAY MAIL SERVICE UNION AND CERTAIN ALLEGATIONS AGAINST THE CHIEF SUPERINTENDENT OF THE OFFICE OF THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS.

1038. **\*Mr. Muhammad Anwar-ul-Azim:** (a) Are Government aware that the General Secretary and the second clerk of the office of the All-India (including Burma) Postal and Railway Mail Service Union are Bengali Hindus?

(b) Is it a fact that the All-India (including Burma) Postal and Railway Mail Service Union has got a branch of its union in the Office of the Director-General, Posts and Telegraphs?

(c) Will Government please state the number of clerks, assistants and superintendents employed in the office of the Director-General, Posts and Telegraphs, Delhi, under the following heads (i) Hindu Bengalis, (ii) Muslim Bengalis, (iii) other Hindus, (iv) other Muslims?

(d) Are Government aware that the Hindu Bengali Chief Superintendent of the office of the Director-General, Posts and Telegraphs, has openly expressed in the office that for the leakage of certain information Muslim employees were held responsible by the Director-General, Posts and Telegraphs?

(e) Is it a fact that the General Secretary and clerks of the All-India (including Burma) Postal and Railway Mail Service Union frequently visit their friends in all sections of the office of the Director-General, Posts and Telegraphs, Delhi, without any restrictions?

**Sir Thomas Ryan:** (a) Government believe that the General Secretary is a Bengali Hindu, but they have no information regarding the clerk.

(b) Yes.

(c) The numbers are:

- (i) Hindu Bengalis—50 clerks, 69 Assistants and 14 Superintendents.
- (ii) Muslim Bengalis—3 clerks and 4 Assistants.
- (iii) Other Hindus—4 clerks.
- (iv) Other Muslims—14 clerks and 2 Assistants.

(d) and (e). No.

**PERCENTAGE OF HINDUS IN THE CENTRAL PUBLICATION BRANCH.**

1039. **\*Mr. Muhammad Anwar-ul-Azim:** (a) Is it a fact that in the Government of India Publication Branch since transferred from Calcutta there are 77.7 per cent Hindus?

**The Honourable Sir Frank Noyce:** Yes.

**CERTAIN POSTS IN THE GOVERNMENT OF INDIA PRESS, NEW DELHI, HELD BY HINDUS.**

1040. **\*Mr. Muhammad Anwar-ul-Azim:** (a) Is it a fact that the posts of (i) Head Assistant, (ii) Assistant Manager, (iii) Accountant, (iv) Assistant to Head Assistant, (v) Assistant to Accountant, and (vi) Head Computer are all held by Hindus in the Government of India Press, New Delhi?

(b) Is it a fact that out of nearly 48 clerks in the Government of India Press, New Delhi, there are only 11 Muslims?

**The Honourable Sir Frank Noyce:** (a) Yes.

(b) The number of clerks now employed is 46 of whom 10 are Muslims.

**NON-RECRUITMENT OF MUSLIM CLERKS IN THE OFFICE OF THE DIVISIONAL ENGINEER, TELEGRAPHS, NEW DELHI.**

1041. **\*Mr. Muhammad Anwar-ul-Azim:** (a) With reference to Seth Haji Abdoula Harcon's starred question No. 1376, dated the 22nd November, 1932, will Government please state whether one permanent and four temporary Muslim clerks mentioned by the Honourable Sir Frank Noyce were appointed by Mr. Bartley, the then Accounts Officer, Telephone Revenue Accounting Office, Delhi?

(b) If the reply to part (a) be in the affirmative, will Government please state why the above clerks are shown as clerks of the office of the Divisional Engineer, Telegraphs, New Delhi, when they were actually recruited by the Accounts Officer, Telephone Revenue Accounting Office, Delhi?

(c) Is it a fact that the Telephone Revenue Accounting Office is an office independent of the Divisional Engineer, Telegraphs, New Delhi?

(d) Is it a fact that the clerks working in the Telephone Revenue Accounting Office, Delhi, are not appointed by the Divisional Engineer, Telegraphs, New Delhi, but by the Accounts Officer of the Telephone Revenue Accounting Office, Delhi?

(e) Is it a fact that in view of the above questions the reply to starred question No. 1376, dated the 22nd November, 1932, was a mis-statement of facts?

(f) Will Government please state now how many Muslims and non-Muslims were appointed exclusively in the office of the Divisional Engineer, Telegraphs, New Delhi, since 1928?

(g) Will Government please state whether the recruitment made in the Telegraph Department was in accordance with the orders contained in the Home Department Memorandum No. F-176/25-Ests., dated the 5th February, 1926 and No. F-21-2-30-Ests., dated the 22nd March, 1930?

**The Honourable Sir Frank Noyce:** (a) to (g). Information has been called for and a reply will be placed on the table in due course.

**CREATION OF SELECTION GRADE POSTS IN THE TELEPHONE REVENUE ACCOUNTING OFFICE, DELHI.**

1042. **\*Mr. Muhammad Anwar-ul-Azim:** (a) Is it a fact that the Telephone Revenue Accounting Office is under the control of the Postmaster General?

(b) Will Government please say if the clerks in the Telephone Revenue Accounting Office take their positions with the staff in the office of the Postmaster General or whether they form a separate cadre?

(c) Is it a fact that there is no selection grade post in the Telephone Revenue Accounting Office, Delhi, and if so, what are the future prospects for promotion of the clerks working in that office?

(d) Is it a fact that almost in all the branches of the Posts and Telegraphs Department there are selection grade posts except in the Telephone Revenue Accounting Office, Delhi?

(e) Will Government please lay on the table a statement giving the following particulars in respect of the offices of Divisional Engineers, Telegraphs, at New Delhi, Lahore, and Rawalpindi and Telephone Revenue Accounting Office, Northern Circle, Delhi:

(a) Number of clerks posts.

(b) Number of selection grade posts.

(c) Number of S. A. S. posts?

(f) Is it a fact that there are no selection grade appointments for clerks in the Telephone Revenue Accounting Office, Delhi?

(g) If the reply to the above be in the affirmative, do Government propose to create selection grade posts in the Telephone Revenue Accounting Office?

**Sir Thomas Ryan:** (a) The telephone revenue accounting work is done usually by a section of the Postmaster General's office, except at Delhi and Calcutta where there are separate Telephone Revenue Accounting Offices.

(b) Except in the two cases just specified, where separate cadres for clerks are maintained, the clerks employed in the telephone revenue accounting work form part of the staff of the offices of Heads of postal circles concerned.

(c) and (f). Yes, but it is the intention ultimately to replace two Accountants on the Subordinate Accounts Service scales of pay now attached to the office by selection grade clerks.

(d) The fact is substantially as stated.

(e) A statement is placed on the table.

(g) Does not arise in view of reply at (c) and (f) above

*Statement.*

	Number of time-scale clerks.	Number of selection grade clerks.	Number of Subordinate Accounts Service Accountants.
Office of the Divisional Engineer, Telegraphs, New Delhi.	19	2	1
Office of the Divisional Engineer, Telegraphs, Lahore.	20	2	1 (Also 1 Accounts clerk).
Office of the Divisional Engineer, Telegraphs, Rawalpindi.	18	2	1
Office of the Accounts Officer, Telephone Revenue Accounting Office, Delhi.	41	Nil.	2

PROVISION OF QUARTERS TO THE BOY PEONS OF THE CENTRAL TELEGRAPH OFFICE, NEW DELHI.

1043. \*Mr. Muhammad Anwar-ul-Azim: (a) Will Government please state whether house-rent allowance is granted to the boy peons of the Central Telegraph Office, New Delhi?

(b) If the above allowance is granted for house accommodation, why is an extra house-rent charged from them for no extra accommodation?

(c) Is it a fact that some officials of the Central Telegraph Office, New Delhi, who are entitled to "D" type quarters, pay three to four rupees rent per month for their quarters?

(d) Is it a fact that the boy peons of the Central Telegraph Office, New Delhi, are allowed to occupy quarters of the smaller type and have to pay rupees three as house-rent?

(e) Do Government propose to provide accommodation in lieu of the house-rent granted them, as they do in the case of inferior servants of the Post Office? If not, why not?

Sir Thomas Ryan: (a) No. In this connection the Honourable Member's attention is invited to parts (b) and (c) of the reply given in this House to his starred question No. 1513 on the 29th November, 1932.

(b) and (e). Do not arise.

(c) The reply is in the negative.

(d) Yes, except that the house-rent is limited to an amount equal to ten per cent. of their pay and is much less than three rupees.

GRANT OF COMPENSATORY ALLOWANCE TO THE EMPLOYEES OF THE OFFICE OF THE DIVISIONAL ENGINEER, TELEGRAPHS, AT SIMLA.

1044. \*Mr. Muhammad Anwar-ul-Azim: (a) Is it a fact that the Simla compensatory allowance is paid to all the clerks and mechanics in the migratory staff of the Central Telegraph Office, New Delhi-Simla, and also to the clerks of the General Post Office, Delhi-Simla, throughout the year to meet the abnormal rental charges on an annual basis at Simla?

(b) If the reply to the above be in the affirmative, will Government please state why this privilege is not extended to a few employees of the office of the Divisional Engineer, Telegraphs, Telephone Branch, New Delhi-Simla? Is it a fact that they belong to the migratory staff and are Government aware that they have to maintain a house at Simla for the whole year, but they are granted compensatory allowance only for six months and not for the whole year?

(c) Do Government propose to extend the privilege mentioned in (a) above to the other subordinates as stated in part (b) and, if not, why not?

**Sir Thomas Ryan:** (a) The fact is substantially as stated by the Honourable Member.

(b) and (c). In the existing state of the finances, proposals for new grants of allowances or for removal of anomalies, involving additional expenditure, are not generally entertained. Government do not propose to make an exception in the case of the Telegraph Engineering Branch officials referred to, who, in fact, get the allowance while in Simla.

#### **HARDSHIPS FELT BY MUSLIMS IN THE POSTS AND TELEGRAPHS DEPARTMENT.**

1045. **\*Mr. Muhammad Anwar-ul-Azim:** (a) Is it a fact that throughout India and Burma in all the Circle offices of the Postmasters General and Divisional offices of the Divisional Engineer, Telegraphs, there is not a single Muslim head clerk in the appointment branch or section?

(b) Is it a fact that during the last recruitment for the appointment of general service and station service telegraphists in the Posts and Telegraphs Department, in the majority of cases, the applications of Muslim candidates were either rejected or returned, on some plea or other? If so, who was responsible for such rejection?

**The Honourable Sir Frank Noyce:** (a) Government have no information. The head clerkships referred to are selection grade posts, promotion to which is not made on communal grounds.

(b) Government have no reason to suppose that the fact is as stated but if the Honourable Member is in possession of authentic evidence of such irregularities and will furnish it to me I shall be happy to make enquiries.

#### **SUCCESSFUL CANDIDATES IN THE EXAMINATIONS OF THE DELHI UNIVERSITY.**

1046. **\*Mr. Muhammad Anwar-ul-Azim:** Will Government please state the number of Muslims and non-Muslims who passed in the last B.A., B.Sc., F.A., F.Sc. Examinations and Matriculation Examination and its equivalent from the Delhi University?

**Mr. G. S. Bajpai:** The information asked for by the Honourable Member is laid on the table.

*Statement showing the number of Muslim and non-Muslim students who passed certain examinations of the Delhi University and the Board of Secondary Education, Delhi, held in 1932.*

DELHI UNIVERSITY.

Examination.	Muslims.	Non-Muslims.
B. A. . . . .	22	113
B. Sc. . . . .	1	25
I. A. . . . .	28	213
I. Sc. . . . .	10	77

BOARD OF SECONDARY EDUCATION, DELHI.

High School and School Leaving Certificates	230	898
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NON-EMPLOYMENT OF MUSLIMS AS GENERAL SERVICE OR STATION SERVICE TELEGRAPHISTS.

1047. \***Mr. Muhammad Anwar-ul-Azim:** Is it a fact that since 1923, not a single Muslim has been recruited as a general service or station service telegraphist from the following Circles, against hundreds of non-Muslims taken :

- (i) Bengal and Assam Circle.
- (ii) Madras Circle.
- (iii) Bombay Circle.
- (iv) Central Provinces Circle.
- (v) Punjab and North-West Frontier Circle.
- (vi) Sind and Baluchistan Circle?

**The Honourable Sir Frank Noyce:** The reply is in the negative.

GRIEVANCES OF THE PUNCHERS OF THE RAILWAY CLEARING ACCOUNTS OFFICE, DELHI.

1048. \***Maulvi Muhammad Shafee Daoodi:** (a) Are Government aware of the fact that the punchers of the Railway Clearing Accounts Office, Delhi, submitted a representation to the Director, Railway Clearing Accounts Office, on the 14th September, 1932, and subsequent reminders on the 17th October, and 8th December, 1932, to reduce their highly fixed daily progress of 1,200, forty-five columned cards which, if compared with the progress of East Indian, Great Indian Peninsula, Bombay, Baroda and Central India and Eastern Bengal Railways is too high?

(b) If the answer to part (a) be in the affirmative, have Government taken any action to redress their grievances? If so, what? If not, why not?

(c) Are Government aware of the fact that the punchers under compulsion have been sitting up to 6 P.M., since January, 1933, to give effect to the full out-turn and that this is telling awfully on their health?

(d) If the answer to part (c) be in the affirmative, what action have Government taken or contemplate to take in this matter to avoid further crisis?

(e) Are Government prepared to revise their present scale or to give some permanent allowances to the punchers which have already been given to the operators?



(f) Are Government aware of the fact that the punchers are often forced to sit till late hours on Saturdays and to attend the office on holidays?

(g) If the answer to part (f) be in the affirmative, will Government explain how long such affairs will be allowed to continue?

**Mr. P. R. Rau:** (a) and (b). I understand that a representation was submitted by the Punchers of the Railway Clearing Accounts Office, Delhi, to the Director and that after examination the Director was satisfied that the prescribed daily out-turn of 1,200 forty-five columned cards was quite reasonable. Experts consider that a reasonable standard rate for India would be 220 per hour or 1,320 for a six hour day. An average of 230 to 235 per hour or about 1,400 for a six hour working day has been obtained. I understand, in the Eastern Bengal Railway and the minimum in Europe and America is 300 per hour for a seven hour day or 2,100 per day.

(c) I understand that a few Punchers have had to work late hours as their out-turn during office hours was not adequate but I have no information to believe that this has had a serious effect on their health.

(d) Government do not consider that any action is necessary.

(e) Government do not consider that having regard to the mechanical nature of their duties, the remuneration allowed to Punchers is inadequate.

(f) and (g). I understand that this is not often the case. It is only when the out-turn of work is considered inadequate, or when there is a heavy rush of work, that they are required to work long hours or to attend on holidays.

#### CONDITIONS FOR APPOINTMENT OF RAILWAY SUBORDINATES TO THE LOCAL TRAFFIC SERVICE.

**1049. \*Lieut.-Colonel Sir Henry Gidney:** (a) Will Government please state the conditions that had to be fulfilled before a subordinate was appointed to officiate as an official or to the Local Traffic Service before the introduction of the Lower Gazetted Service?

(b) Will Government please state the grounds on which officiating officials and officers of the Local Traffic Service can be reverted to their substantive or original subordinate posts?

(c) Will Government please state whether the Lower Gazetted Service is an official or a subordinate service?

(d) Is it a fact that the Lower Gazetted Service was introduced in place of the Local Traffic Service and in response to the demand made by this House to provide for the subordinates who have for long periods of years been officiating as officials?

(e) Will Government please state what principles and procedure were followed in the absorption into the Lower Gazetted Service of the officers belonging to the Local Traffic Service and other officiating officials?

(f) Is it not a fact that appointments of senior subordinates to the Local Traffic Service and as officiating officials were made by "selection" and in consideration of seniority in service?

(g) If the answer to part (f) be in the affirmative, will Government please state whether the Agents are desired to make a second selection for appointment to the Lower Gazetted Service from among these officers who have for considerable periods discharged the duties of officials satisfactorily? If so, why?

(h) Are Government aware that such a procedure has led to acts of favouritism on the part of Heads of Departments and Agents of Railways in making these selections and considerable discontent to those officiating officials?

(i) Will Government please state whether the Railway Board admit appeals against supersessions in promotions made by selection to the Lower Gazetted Service, *vide* D. O. No. 1403-E. G., dated the 18th/19th April, 1932, from Mr. A. M. Hayman, Labour Member, Railway Board, in which it is stated that "it is open to employees to appeal against supersession for promotion"?

(j) Do Government propose to redress such inequities?

**Mr. P. B. Rau:** (a) and (f). Promotion to the Local Traffic Service from the subordinate ranks was made by selection of staff considered fit to fill the posts, seniority being taken into consideration.

(b) Officiating officers of the Local Traffic Service can be reverted to their substantive or original subordinate posts if the vacancy in which they are officiating ceases to exist or if they are found to be unsuitable to hold such posts.

(c) The Lower Gazetted Service is not a subordinate service.

(d) The Lower Gazetted Service took the place of the Local Traffic Service and is intended to be recruited mainly by promotion of specially selected subordinates.

(e) Permanent officers of the Local Traffic Service who were not promoted to the Superior Service on the abolition of the Local Traffic Service were given the option to elect to come into the Lower Gazetted Service or to remain in the Local Traffic Service.

I believe that subordinates officiating in the Local Traffic Service were appointed to officiate in the Lower Gazetted Service so long as the vacancies continued.

(g) In making confirmations it is obviously necessary to make a selection from people who have been tried in an officiating capacity in order to see which is the most suitable.

(h) Government have no reason to think that such is the case.

(i) Appeals from subordinate officials do not ordinarily lie beyond the Agent. When permanent posts in the Lower Gazetted Service have to be filled the Agent makes his recommendations to the Board and the Board then issues orders. Subordinate officials who have not been recommended by the Agent or who have not been selected by the Board may appeal to the Agent and the Agent would refer such appeals to the Board if he considered that there were reasons for asking the Board to reconsider their orders.

(j) Government have no reason to think that any general change in the existing procedure is necessary. Each case must be dealt with on its merits.

**Lieut.-Colonel Sir Henry Gidney:** In view of the Honourable Member's reply that the lower gazetted service is not a subordinate service, will he kindly inform this House whether Railway officials have the right of appeal to the Railway Board beyond the order of the Agent?

**Mr. P. R. Rau:** I do not think I am in a position to reply to that question. I must refer to the appeal rules.

**Lieut.-Colonel Sir Henry Gidney:** I repeat, Sir, this is a very simple question. Has an official the right of appeal to the Railway Board or has he not?

**Mr. P. R. Rau:** I have already mentioned that this is a question relating to the appeal rules. I do not carry all the rules in my head.

**Lieut.-Colonel Sir Henry Gidney:** In view of the fact that officials do and can, without demur appeal to the Railway Board and in view of the fact that the lower gazetted service is not as admitted by the Honourable Member a subordinate service, will the Honourable Member reconcile that information with the reply he gave that such an appeal lies entirely in the hands of the Agent?

**Mr. P. R. Rau:** I said that appeals from subordinates do not ordinarily lie beyond the Agent.

**Lieut.-Colonel Sir Henry Gidney:** If the lower gazetted service is not a subordinate service, the appeal must lie beyond the hands of the Agent? Is that so?

**Mr. P. R. Rau:** I have not said that the appeals from the lower gazetted service lie to the Railway Board.

**Lieut.-Colonel Sir Henry Gidney:** Will the Honourable Member state whether an appeal from a member of the lower gazetted service can be made to the Public Service Commission through his Departmental Head?

**Mr. P. R. Rau:** That, again, is a question of the Public Service Commission rules.

**Dr. Ziauddin Ahmad:** Is it not a fact that the whole system of appeals to the Railway Board is very shaky and that ultimately the order is written out by the clerk who makes the first report of these things?

**Mr. P. R. Rau:** I know that is my Honourable friend's opinion.

**Lieut.-Colonel Sir Henry Gidney:** Will the Honourable Member make inquiries regarding appeals relating to the lower gazetted service and the Railway Board and Public Service Commission and lay it on the table?

**Mr. P. R. Rau:** I shall do so.

**Lieut.-Colonel Sir Henry Gidney:** Thank you.

In view of the Honourable Member's reply regarding appointments to the lower gazetted service and in view of the fact that he admits that seniority is taken into consideration, will the Honourable Member please

state if it is right and just that subordinates who have been selected for the local traffic service and who have been taken into the lower gazetted service by selection and seniority, is it right that they should be submitted to a second selection and seniority test by another Agent?

**Mr. P. R. Rau:** That seems to be a question of opinion. That is not a question of fact.

**Lieut.-Colonel Sir Henry Gidney:** I give it to you in the form of a specific question. Is it or is it not a fact that when a subordinate is selected from the lower traffic service and again selected as fit for inclusion into the lower gazetted service, when another Agent or Head of a Department comes into power he is subjected to another selection despite the fact that the former Head of his Department or Agent had recommended him as fit for such special promotion? Does this not invite favouritism which in extreme cases spells victimization? Sir, I have two cases to prove this in the East Indian and North Western Railways. Is it or is it not a fact, that that practice is being followed to the serious disadvantage of senior subordinates who for years have been denied confirmation or even admission into the lower gazetted service and so encourage the cursed practice of favouritism?

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Honourable Member is presumably aware that that is a fact.

**Lieut.-Colonel Sir Henry Gidney:** Sir, I only want to know whether the Honourable Member will admit this fact on the floor of the House or not, and that it is the practice. Is it not, I ask him, to deny this charge?

**Mr. P. R. Rau:** Without knowing what are the two cases in question, I cannot say whether it is a question of fact.

**Lieut.-Colonel Sir Henry Gidney:** The Honourable Member does know those two cases, in both the E. I. and N. W. Railways and if he so desires, I am prepared to give him the names.

**Mr. P. R. Rau:** I am afraid, not.

**Mr. K. C. Neogy:** Is the Honourable Member in a position to state as to whether this class of question will be permitted to be asked in the Federal Assembly if the scheme for a Statutory Railway Board comes to be adopted on the lines on which it has been recommended by the Government of India?

**Mr. P. R. Rau:** I am not a prophet, Sir.

#### CONTRACTS IN THE TRANSPORTATION DEPARTMENT ON THE BHUSAWAL AND NAGPUR DIVISIONS OF THE GREAT INDIAN PENINSULA RAILWAY.

1050. **\*Lieut.-Colonel Sir Henry Gidney:** (a) Is it a fact that, on the Bhusawal and Nagpur Divisions on the Great Indian Peninsula Railway, almost all the coal contracts and shed cleaning and ash pit cleaning work is given to a certain family and that they monopolise the contracts in the Transportation Department (Loco.)?

(b) Will Government be pleased to tell this House if any of these contracts were advertised in any of the papers as is being done by the Jubbul-pore Division, and tenders asked for? If not, why not?

(c) If the answer to part (b) be in the affirmative, will Government please give the names of the papers and the number and names of tenders offered?

(d) Will Government inform this House if there has been any reduction in the rates of contracts to load, unload and stack coal on the Bhusawal Division and, if so, what saving has been effected since this question was raised in this House last year?

(e) Will Government please inform this House how many station contracts are given to the family referred to in part (a), also the stations where other contracts are given them?

(f) In the interests of economy, do Government propose to advertise these contracts and give them to those who submit the lowest tender?

**Mr. P. R. Rau:** I have called for information and on receipt a reply will be laid on the table.

**Lieut.-Colonel Sir Henry Gidney:** Does the Honourable Member need to be reminded twice of a question before he answers it once?

**Mr. P. R. Rau:** I do not understand that question, Sir.

**Lieut.-Colonel Sir Henry Gidney:** I am talking of question No. 1050. I forgot to ask him that.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): No. 1050 has been answered.

**Lieut.-Colonel Sir Henry Gidney:** I am sorry, Sir, I did not take notice of the answer, because a similar question was asked by me about eight months ago and no reply has yet been given.

#### INTRODUCTION OF POOLING SYSTEM ON THE MAIL AND PASSENGER LINKS OF THE BHUSAWAL DIVISION, GREAT INDIAN PENINSULA RAILWAY.

1051. **\*Lieut.-Colonel Sir Henry Gidney:** (a) Will Government please place on the table the figures worked out by the Great Indian Peninsula Railway for the introduction of the pooling system on the mail and passenger links of the Bhusawal Division and state if, by this new system, there is to be an appreciable economy gained?

(b) Will Government please place on the table the figures and statistics which brought about the closing of the fitting and repair shops at Bhusawal and the expenditure incurred by the layout of 3½ lakhs of rupees in the building of the new shops at Bhusawal?

(c) Will Government please state if there has been any retrenchment of labour by the closing down of the fitting and repair shops at Bhusawal or has it been necessary to engage more labour though it be in the supervising staff?

(d) Will Government please lay on the table the figures of failures of engines on the Bhusawal Division since the introduction of the pooling system as compared with the figures for six months' previous to this introduction?

**Mr. P. R. Rau:** (a) The number of engines required to work mail and passenger links of the Bhusaval Division under the assigned crew system of working is 56. Under the pooling system it is estimated that not more than 44 engines will be required. The economy gained is in the saving of 12 engines to be released for other services.

(b) The expenditure of Rs. 3½ lakhs in the building of the new shops at Bhusaval was justified on the following grounds:

(i) Saving resulting from the reduction in the number of engine failures Rs. 20,000 per year.

(ii) Saving from the reduction in the cost of maintenance of the engines Rs. 48,000 per year.

Other savings, the financial value of which cannot be reduced to definite figures.

(iii) The reduction in the number of engines required to meet the exigencies of train services making it possible to release engines for other services and thereby postponing capital expenditure on locomotives.

(iv) Increase in the mileage run by engines between periodical overhaul in Mechanical shops by virtue of the improved maintenance of engines in the Running sheds.

(c) There has been no retrenchment of labour by the closing down of the old fitting and repair shops at Bhusaval and it has not been necessary to engage more labour nor to increase the number of supervising staff appointments. Most of the staff rendered surplus have been transferred against vacancies requiring to be filled in other Departments and Divisions.

(d) The number of engine failures on the Bhusaval Division for the 6 months prior to the introduction of pooling was 38. The number of failures since pooling was introduced is 26 none of which was due to causes connected with the more intensive use of locomotives.

#### PAY OF STOCK VERIFIERS ON THE GREAT INDIAN PENINSULA RAILWAY.

1052. **\*Lieut.-Colonel Sir Henry Gidney:** (a) Is it a fact that the Stock Verifiers on the Great Indian Peninsula Railway are paid Rs. 200 per mensem whilst those on the East Indian and North Western Railways are paid Rs. 240 though they all come under the same conditions of the Memorandum No. 5565 of the 31st July, 1929?

(b) Do Government propose to remedy this distinction? If not, why not?

**Mr. P. R. Rau:** (a) The maximum of the scale of pay for Stock Verifiers on the Great Indian Peninsula Railway is Rs. 200 while on the other State Railways in India it is Rs. 240.

(b) In all these cases the maximum is the same as it was prior to the separation of Accounts from Audit in the various offices. Government see no reason to raise the pay of Stock Verifiers on the Great Indian Peninsula Railway. The question of having a uniform scale of pay for Stock Verifiers on all the State-managed railways will be considered in connection with the revised scales of pay for all subordinate services of railways, which is at present under consideration.

**Lieut.-Colonel Sir Henry Gidney:** Is it a fact or is it not a fact that there is a standard pay for all officials on all Railways? If the answer be in the affirmative, why should there be a difference in the standard of pay for subordinates in different State Railways?

**Mr. P. R. Rau:** Sir, I believe it is a fact that in all the State-managed Railways in India, there is a standard scale of pay for officers, and that is partly because they are liable to transfer from one Railway to another; but in the case of subordinates there is no such uniformity.

**Lieut.-Colonel Sir Henry Gidney:** Why not?

**Mr. P. R. Rau:** Because Government consider that there is no necessity for it.

**Lieut.-Colonel Sir Henry Gidney:** Are subordinates not liable to transfer, are they not in fact transferred to every other Railway?

**Mr. P. R. Rau:** I do not think subordinates are ordinarily transferred from one Railway to another.

#### PAY OF ACCOUNTANTS ON THE EAST INDIAN RAILWAY.

1053. **\*Lieut.-Colonel Sir Henry Gidney:** (a) Is it a fact that in respect of the fixation of pay a distinction had been made between Accountants governed by East Indian Railway Company Rules and Accountants governed by State Railway Rules to the detriment of the former?

(b) Is it a fact that in 1926, on the introduction of State Railway grades of pay in the East Indian Railway Accounts Department, those accountants who were on East Indian Railway Company grades were fitted into the State Railway grades, but continued to be governed by the East Indian Railway Company rules, having been given the option of electing the State Railway grades without being given any indication that a bar to the attainment of the maximum of those grades would subsequently arise?

(c) Is it a fact that the majority of East Indian Railway Company men were fitted on State Railway grades in an officiating capacity and that they drew increments in those grades for five years, i.e., until 1931?

(d) Is it a fact that in 1931 it was discovered that according to a very old East Indian Railway leave rule they were not entitled to draw more than the minimum pay of the grade in which they are officiating?

(e) Is it a fact that the increments drawn by these men were withdrawn, because they had not been confirmed during their years of officiating service, the confirmation having been withheld for some unknown reason?

(f) Is it a fact that the pay thus lost by these men has never been restored in full with the result that their juniors, who happen to be governed by State Railway Rules, have retained the higher rates of pay and consequently the higher positions in the seniority lists?

(g) Is it a fact that no fault has been found in the work of these men and that the sole reason for their low pay and seniority is that they were in service prior to the East Indian Railway becoming a State Railway and because they were not apprised of the rule referred to in part (d)?

**Mr. P. E. Rau:** (a) Both Accountants governed by the East Indian Railway Company rules and Accountants governed by State Railway rules had their pay fixed according to the rules to which they were subject. I understand there was an unavoidable distinction because in the case of staff governed by the East Indian Railway Company rules officiating service did not count for increments.

(b) The answer to the first part of the question is in the affirmative, but I am informed there is no bar to the attainment of the maximum of these grades on confirmation.

(c) and (d). Yes.

(e) and (f). I understand that in a number of cases confirmations could not be made because the whole of the establishment was temporary till 1929, and while the staff have not lost their seniority by this delay, their pay has been fixed at less than what it would have been if they could have been confirmed earlier. The question, to which I am glad my Honourable friend has drawn my attention, is being further examined by me.

(g) I can assure my Honourable friend that the fixation of the pay of these men has not been guided by any disciplinary considerations.

**Lieut.-Colonel Sir Henry Gidney:** Thank you.

#### ENTERTAINMENT OF ADDITIONAL STAFF IN THE INCOME-TAX OFFICE IN THE MADRAS CITY.

1054. **\*Mr. Muhammad Muazzam Sahib Bahadur:** (a) Will Government be pleased to state the working hours of the subordinate staff in the Income-tax Office in Madras City? Is it a fact that owing to the increased work consequent upon the reduction of the assessable minimum, the subordinate staff is called upon to work until very late hours and that even on Saturdays?

(b) Is any extra remuneration granted to the subordinate staff for such additional work or are they required to do such work on the principle that the full time of the staff is at the disposal of the Government?

(c) Do Government propose to sanction additional staff to cope with the increased work?

**The Honourable Sir George Schuster:** (a) The working hours of the Income-tax Offices in Madras City are 11 A.M. to 5 P.M. including Saturdays. Some of the subordinate staff employed for the assessment of lower incomes remain at work for one or two extra hours on some occasions, especially during the closing months of the year in order to clear off arrears.

(b) No extra remuneration is paid as the staff is expected to work for one or two extra hours whenever there is a rush of work.

(c) The additional staff required is being sanctioned.

#### CHARGE OF POLITICAL AGENTSHIP OF STATES IN ORISSA.

1061. **\*Kumar Gupteshwar Prasad Singh** (on behalf of Mr. B. N. Misra): Do Government contemplate to give the charge of the Political Agentship into the hands of the Governor in the new province of Orissa?

**Mr. H. A. F. Metcalfe:** No, Sir.



### HEADQUARTERS OF THE POLITICAL AGENT OF STATES IN ORISSA.

1062. **\*Kumar Gupteshwar Prasad Singh** (on behalf of Mr. B. N. Misra): Is it a fact that the number of the States of Orissa are more than that of the Central Provinces? If so, are Government prepared to consider whether the headquarters of the Agent's office should not be somewhere in the future Orissa Province in a place like Cuttack or Puri?

**Mr. H. A. F. Metcalfe:** Yes. Ranchi has been chosen temporarily as the headquarters of the combined Agency both in view of its geographical situation as almost all the States are comparatively easily accessible from it, and also because accommodation was available for the office and Agency staff at economical rates. At the present time the Honourable Member is doubtless aware that Government would be entirely unjustified in embarking upon Schemes involving heavy additional expenditure, and it has been possible to inaugurate the new Scheme at a cost less than that previously incurred when the States were in relation with the Local Governments. The question of change of headquarters from Ranchi to any other station will depend upon experience of actual working.

**Mr. Gaya Prasad Singh:** Why should not Ranchi be permanently chosen as the headquarters, considering all the advantages which have been mentioned by my Honourable friend?

**Mr. H. A. F. Metcalfe:** For the present it has been so chosen, but it may be possible that in the course of working some other place may be found either more convenient or more economical. There is at present no intention of changing it from Ranchi.

**Mr. B. Das:** Will the Honourable Member kindly bear in mind the fact that the province of Bihar has no feudatory State, and that no Bihari will be employed in the office of the Agent to the Governor General?

**Mr. H. A. F. Metcalfe:** Those considerations will certainly be borne in mind.

### CREATION OF NEW OFFICE OF THE POLITICAL AGENT FOR THE STATES OF ORISSA AND THE CENTRAL PROVINCES.

1063. **\*Mr. B. N. Misra:** Will Government be pleased to state:

- (i) whether a new office of the Political Agent for the States of Orissa and the Central Provinces is going to be started with effect from the 1st April, 1933;
- (ii) what is the total number of the States that will come within the jurisdiction of this office from Orissa and the Central Provinces, respectively;
- (iii) how many Oriya speaking States there are in the Central Provinces which are claimed to be Oriya States;
- (iv) what is the population of Oriyas in those States, *viz.*, Bastar, Jaspur, etc.;

(v) what is the proportion of the percentage of population of the people speaking the languages of:

- (a) Oriya,
- (b) Bengalee,
- (c) Hindustani, and
- (d) other non-Oriya languages,

(vi) what is the proportion of the percentage of people of following different communities:

- (a) Oriyas,
- (b) Bengalees,
- (c) Hindustanis,
- (d) other non-Oriyas, other than
- (e) Aborigines;

(vii) how many clerks, typists and what other staff will be taken for this new office;

(viii) what is the percentage of Oriya representation in proportion to the non-Oriyas in the new office;

(ix) whether Government contemplate taking into this office any of the clerks from the Political Agent's office of Sambalpur?

**Mr. H. A. F. Metcalfe:** (i) The Honourable Member has, doubtless, seen the Press Communiqué of the 20th of March, but I may take this opportunity of explaining the proposed arrangements. The Agent to the Governor General of the new Eastern States Agency which will comprise the States of Bihar and Orissa and Central Provinces (excluding Makrai) will have, as from the 1st of April, 1933, his temporary headquarters at Ranchi. His staff will include a Secretary, and at Sambalpur another Secretary and Political Agent.

(ii) 26 States from Bihar and Orissa and 14 excluding Makrai from Central Provinces.

(iii) to (vi). The collection of the information, for which the Honourable Member asks, would entail considerable time and labour and the statistics can no doubt be obtained from books of reference such as Census Reports and Gazetteers, which are available to the public.

(vii) It is proposed to entertain the following staff for the new office:

1 Agent to the Governor General, Eastern States.

1 Secretary to the Agent to the Governor General, Eastern States at Ranchi.

1 Secretary to the Agent to the Governor General, Eastern States, and Political Agent, Sambalpur.

1 Assistant Secretary.

1 Superintendent.

3 Head Assistants.

8 Assistants.

13 Clerks and typists.

3 Stenographers.

3 Daftaries.

3 Jamadars.

22 Peons.

2 Chowkidars.

(viii) The question of filling individual appointments is still under consideration.

(ix) Yes.

**TENDER CALLED FOR BY THE INDIAN STORES DEPARTMENT FOR ENAMEL NAVY GREEN.**

1075. \***Mr. D. K. Lahiri Chaudhury:** (a) Is it a fact that the Indian Stores Department called for tender No. H.-5790 for 6,400 gallons of enamel navy green?

(b) Is it a fact that Messrs. Jenson and Nicholson were not able to submit any sample with the tender?

(c) Is it a fact that a contract was made by the Indian Stores Department with Messrs. Jenson and Nicholson for the supply of 4,000 gallons of enamel navy green at Rs. 11-4-0 per gallon? If so, will Government be pleased to state why in the absence of any sample submitted by the tenderer and tested by the Government Test House the tender was accepted?

(d) Will Government be pleased to state whether their supply of 4,000 gallons of enamel navy green proved a failure and unsatisfactory?

(e) Is it a fact that Messrs. Murarka Paint & Varnish Works, Limited, quoted Rs. 6-8-0 per gallon for their enamel navy green which fully satisfied and conformed to the composition of pigments laid down in the Indian Stores Department specification?

(f) Is it a fact that the enamel navy green sample of Messrs. Murarka Paint & Varnish Works, Limited, gave a more glossy film?

**The Honourable Sir Frank Noyce:** With your permission, Sir, I propose to reply to questions Nos. 1075, 1076 and 1077 together.

The information is being collected and a statement will be laid on the table in due course.

**TESTING OF SAMPLES OF ENAMEL NAVY GREEN BY THE GOVERNMENT TEST HOUSE, ALIPORE.**

†1076. \***Mr. D. K. Lahiri Chaudhury:** (a) Is it a fact that several samples of enamel navy green submitted with the Indian Stores Department, tender No. H.-5790, were tested by the Government Test House, Alipore? If so, will Government be pleased to state whether the Alipore Test House gave any test report about Messrs. Jenson and Nicholson's sample?

(b) Will Government be pleased to place a copy of that report on the table of the House? If not, why not?

(c) Do Government propose to place a copy of the Test House report about Murarka's regarding their sample of the enamel navy green on the table of the House? If not, why not?

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† For answer to this question, see answer to question No. 1075.

(d) Is it a fact that the Indian Stores Department accepted the tender of Messrs. Jenson and Nicholson for the supply of 4,000 gallons of enamel navy green on the recommendation of the Government Test House, Alipore? Will Government be pleased to state how the Alipore Test House submitted a report about Messrs. Jenson and Nicholson's Enamel Navy Green? Was any sample submitted by the firm with the tender?

**SUPPLY OF ENAMEL PURPLE BROWN TO THE EASTERN BENGAL RAILWAY THROUGH THE INDIAN STORES DEPARTMENT.**

†1077. \***Mr. D. K. Lahiri Chaudhury:** (a) Is it a fact that the Indian Stores Department entered into a contract with Messrs. Hoyle Robson Barnett & Co., Limited, in 1932-33 for the supply of enamel purple brown to the Eastern Bengal Railway at Rs. 40 per cwt. f. o. r., Calcutta?

(b) Is it a fact that the terms of the contract for purchasing the enamel purple brown to the Eastern Bengal Railway was violated?

(c) Is it a fact that the same stuff was purchased from Messrs. Jenson and Nicholson at Rs. 9-8-0 per gallon (specific gravity said to be 12lbs. to a gallon) while the contract was in force with Messrs. Hoyle Robson Barnett & Co., Limited?

(d) Is it a fact that Government paid about Rs. 48 per cwt. extra for the enamel purple brown purchased by them from Messrs. Jenson and Nicholson?

(e) Will Government be pleased to state the total amount of enamel purple brown purchased by the Indian Stores Department from Messrs. Jenson and Nicholson and what was the total amount of loss to the Indian exchequer involved in this transaction?

(f) Do Government propose to inquire into the reasons for which the purchase was made when a contract for the supply of the same was in force with another firm?

(g) Will Government be pleased to state who are responsible for this purchase and do Government propose to punish the officers involved through whose fault Government lost so much money? If not, why not?

**USE OF "MURACO BLACK" PAINT ON STATE RAILWAYS.**

1078. \***Mr. Muhammad Anwar-ul-Azim:** (a) Is it a fact that all the State Railways in India were supplied in 1930 with samples of "Muraco Black", an indigenous black paint for testing? If so, are Government prepared to ask the Railways to supply the Indian Stores Department with their reports?

(b) Are Government aware that the East Indian Railway tested "Muraco Black" under two years' exposure test on wagons running on actual traffic and found the paint to be satisfactory and economical?

(c) Are Government aware that the Eastern Bengal Railway, insists on another two years' exposure test to be carried on by themselves on their own wagons before they can substitute "Muraco Black" for the 3 per cent. carbon black of Jenson Nicholson that is being used by them? If not, do they propose to enquire? If not, why not?

(d) Will Government be pleased to state the reasons why the test report of one State Railway is not acceptable to other State Railways? Do the Railway Board propose to call for the test report of the "Muraco Black" and submit the same to all other State Railways for the use of the "Muraco Black" provided the Muraco Black has been found cheaper and economical in the long run? If not, why not?

(e) Will Government be pleased to state the total number of gallons of ready mixed black paint that has been consumed by all the State Railways during each of the last three years?

(f) Will Government be pleased to state whether the Eastern Bengal Railway authorities carried out the two years' exposure test before they purchased the 3 per cent. carbon black ready mixed paint from Messrs. Jenson Nicholson? If not, will Government be pleased to state why the Eastern Bengal Railway is insisting on another two years' exposure test?

(g) Is it a fact that Eastern Bengal Railway, is purchasing Kearsley's black paint from Messrs. Robert Kearsley, an English firm? If so, will Government be pleased to state whether the same firm failed to deliver paints in time? Is it a fact that the paint works of the Eastern Bengal Railway had to be shut down for want of supply of black paints?

(h) Will Government be pleased to state what black paint they had to purchase immediately in order to keep the paint works running?

(i) Will Government be pleased to state the name of the firms which rescued the Eastern Bengal Railway in times of need and will they be pleased to state the quantity of paint which that firm had to supply at short notice?

(j) Will Government be pleased to state whether the firm which supplies black paint used by the East Indian Railway at Lillooah failed to supply the black paint in time resulting in the closing down of the works?

(k) Will Government be pleased to state the name of the firm which supplied the black paint and kept the works going at Lillooah?

(l) Is it a fact that the firm had to supply the paint at 88 hours' notice and they fulfilled their contract at that short notice? If so, are Government prepared to purchase the whole amount of their requirements of black paint from that firm? If not, why not?

**Mr. P. R. Rau:** The information asked for by the Honourable Member is being obtained from railways and, on receipt, will be laid on the table.

†1079.\*

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†This question was withdrawn by the questioner.

**POSSESSION OF A DIPLOMA OR CERTIFICATE IN THE HINDI LANGUAGE BY THE SUPERINTENDENT OF EDUCATION, DELHI.**

1080. \***Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): With reference to the reply to part (c) of my starred question No. 800, laid on the table on the 28th February, 1933, in which Government stated that "the medium of instruction in primary schools in the Central India Agency is Urdu, Hindi, Gujrati and Marathi," and the reply to part (e) of the same question in which instead of mentioning any diploma in Hindi, if any, possessed by the Superintendent of Education as asked in the question, Government simply stated that "the Superintendent of Education is fully conversant with Hindi", will Government now kindly state whether the Superintendent has any diploma or certificate for a knowledge of Hindi?

**Mr. H. A. F. Metcalfe:** With your permission, Sir, I propose to answer questions Nos. 1080 to 1082 together. The required information is being collected and will be given to the House in due course.

**QUALIFICATIONS POSSESSED BY THE SUPERINTENDENT OF EDUCATION, DELHI, IN THE GUJRATI AND MARATHI LANGUAGES.**

†1081. **Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): Will Government be pleased to state what recognised qualifications the present Superintendent of Education possesses in the Gujrati and Marathi languages qualifying him to hold formal inspection and to judge the instructional work of the primary schools in which the medium of instruction has been said to be Gujrati and Marathi?

**EXPENDITURE ON INSPECTORATE IN THE ADMINISTERED AREAS IN CENTRAL INDIA.**

†1082. \***Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad): With reference to part (b) of my starred question No. 301, replied on the 28th February, 1933, will Government kindly place on the table of the House the following details of the total expenditure on inspectorate in the year preceding the appointment of the present Superintendent of Education and in the year 1932 (after his appointment) separately:

- (1) Pay of the Inspector of Schools, Central India.
- (2) Pay of Inspector's office clerks.
- (3) Pay of Inspector's office peons.
- (4) Travelling allowance of the Inspector and his peons, etc.
- (5) Inspector's office contingencies.
- (6) Pay of the Superintendent of Education (Central India in 1932).
- (7) Pay and special pay of Superintendent's stenographer.
- (8) Pay of the Superintendent's peons.
- (9) Pay of the Superintendent's office clerks.
- (10) Travelling allowance of the Superintendent and his attached staff.
- (11) Superintendent of Education's office contingencies.
- (12) Miscellaneous expenditure?

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† For answer to this question, see answer to question No. 1080.

**POWER HOUSES GENERATING ELECTRIC CURRENT OWNED BY THE GOVERNMENT OF INDIA IN JHANSI.**

1083. **\*Mr. B. Das** (on behalf of Lala Rameshwar Prasad Bagla): (a) Are Government aware that in Jhansi, in addition to the power house belonging to the Jhansi Electric Supply Company, there are three other power houses generating electric current owned by the Government of India?

(b) Is it a fact that the military authorities are running and maintaining two power houses at Jhansi, one for the Cantonment area and the other for Jhansi Fort?

(c) Will Government be pleased to state the cost that they are incurring in running these two military power houses including all maintenance charges and salaries of all connected or associated officers therewith?

(d) Is it a fact that the military authorities besides meeting their own requirements are supplying current to hotels, shops and private residents in the Cantonment of Jhansi and if so, at what rate?

(e) Are Government prepared to consider the desirability of taking steps to:

- (i) see that the military authorities do not supply current to non-military residences and persons;
- (ii) see that steps are taken to reduce or discontinue the number of military power hands;
- (iii) enquire whether it would not be economical and in the interests of both the military authorities and the general public of Jhansi that only one power house capable of meeting both civil and military requirements of Jhansi is maintained and to consider the desirability of the military authorities taking their supply of electric energy in bulk from the public Supply Company at Jhansi?

**Mr. G. R. F. Tottenham:** (a) and (b). Yes.

(c) In 1931-32 the total cost, including working and overhead charges, depreciation, interest, etc., was about Rs. 80,000 for the Cantonment Power House and Rs. 6,000 for the Fort Power House.

(d) Houses and buildings within the military area are supplied by the Military Engineer Services. The charge is annas four per unit for electrical energy supplied for domestic purposes and annas one to two for industrial purposes.

(e) (i). The suggestion of the Honourable Member will be considered if the local Supply Company will undertake to provide electric energy at reasonable rates to private residences in the area served by the Cantonment Power House.

(ii) No reduction of the establishments at the Military Power Houses in Jhansi is possible.

(iii) A proposal that a bulk supply should be taken from the public Supply Company has already been examined and rejected, as it would not lead to economy. The rates proposed by the Company were higher than the rates at which electric energy is generated in the Military Power Houses.

**RE-EMPLOYMENT OF DISCHARGED PERSONS IN THE RAILWAY CLEARING ACCOUNTS OFFICE, DELHI.**

1084. \***Pandit Satyendra Nath Sen:** (a) Are Government aware that in many railway offices men discharged for the purposes of retrenchment have nearly all been taken up again?

(b) If so, in how many such offices and which are they?

(c) Is it not a fact that the method adopted has been to make people on the top to retire and thereby to make room for people with lesser salaries? If so, do Government approve of it?

(d) What are the offices in connection with the Railway administration where this principle of retrenchment and employment has not been adopted?

(e) Is it not a fact that the office of Director, Railway Clearing Accounts, has not followed the said principle? If so, why?

**Mr. P. R. Rau:** (a) and (b). Railways maintain waiting lists of men discharged during the block retrenchments and appoint them as and when vacancies occur, and no outsider is appointed so long as a suitable candidate from the waiting list is available. Government have no information as to the extent to which these discharged men have been reappointed.

(c), (d) and (e). The method of retrenchment adopted in regard to railway staff in connection with the recent retrenchment is that of length of service and is based on the recommendation of the Court of Enquiry. As regards the Clearing Accounts Office I would invite my Honourable friend's attention to the reply I gave on the 25th February, 1933, to his question No. 492.

**PROMOTION OF TELEGRAPHISTS TO POSTS AND TELEGRAPH MASTERS.**

1085. \***Pandit Satyendra Nath Sen:** (a) Will Government be pleased to state whether it is a fact that in addition to passing the Telegraph Master-ship examination, a telegraphist must put in 15 years service and pass the efficiency bar, before his claims for promotion to Telegraph Mastership could be considered? If so, why?

(b) Is it a fact that in cases of promotion by examination to higher ranks in other branches of the Posts and Telegraphs Department and in almost all Government Departments seniority for promotion is counted from the date of passing the examination? If so, why is not the same principle applied for promotion to Telegraph Mastership?

(c) Did the Retrenchment Sub-Committee recommend that merit should be given preference over seniority in the Telegraph Department? If so, has this recommendation been accepted by Government?

(d) Do Government propose to change this rule for promotion to Telegraph Mastership and fix seniority from the date of passing the Telegraph Mastership Examination irrespective of the number of years of service as a telegraphist? If not, why not?

**Sir Thomas Ryan:** (a), (b) and (d). The position in general is as understood by the Honourable Member. It is perhaps unnecessary to set out the reasons which led to the adoption of the existing system several years



ago, as the whole matter of promotion in the traffic branch is about to be reviewed in the light of the report recently submitted by the Committee presided over by Mr. Varma.

(c) Yes, in the case of the higher posts. The attention of the Honourable Member is invited to the reply to his unstarred question No. 81 on the 25th February, 1933.

#### TRADE CARRIED ON IN NEW DELHI.

1086. \***Pandit Satyendra Nath Sen:** (a) Is it a fact that recently under a notification of the Government of India, New Delhi has ceased to be merely a residential quarter and has assumed the position of a trading centre, as it has been announced in an article in the *Statesman*, of the 23rd February last?

(b) Has this declaration by a notification got anything to do:

- (1) with the imposition of the terminal-tax;
- (2) with the imposition of a tax on cows and female buffaloes;
- (3) with the installation of water meters in the clerks quarters?

(c) If the answer to part (b) be in the negative, will Government be pleased to say:

- (1) Is it the intention of the declaration to segregate the cows and buffaloes out of the city;
- (2) What special trade is carried on in New Delhi in the Gole Market and in the Connaught Place and what is its annual value?

**Mr. G. S. Bajpai:** The Government of India have not issued any such notification as is referred to in part (a) of this question. They have called for information from the Local Administration and will communicate the result to the House in due course.

#### WASTAGE OF WATER IN THE CLERKS' QUARTERS IN NEW DELHI.

1087. \***Pandit Satyendra Nath Sen:** (a) Will Government be pleased to say with reference to the reply given by Mr. G. S. Bajpai to a question put by Mr. Maswood Ahmed in November last, how they have come to understand that much wastage of water is caused in the clerks quarters in New Delhi?

(b) What is the basis on which that statement was made?

**Mr. G. S. Bajpai:** (a) and (b). Enquiries showed that in 1931 on an average 90 gallons of water per head per day were consumed in each of the clerks' quarters which were not fitted with meters, whereas in the buildings that are metered the consumption varied between 20 and 25 gallons per head per day.

**Mr. B. Das:** Is the Honourable Member prepared to put a meter in the houses where the officers reside? Is it not a fact that the officers are allowed 110 gallons per day per head?

**Mr. G. S. Bajpai:** Meters are already fitted in the residences where the officers reside and I can say, from my personal experience, that I do not use 110 gallons per day.

**Sirdar Harbans Singh Brar:** Does not the Honourable Member think that the cleanliness of clerks' quarters will be considerably affected if a limit is placed on the consumption of water and that, if a meter is fitted, they will use less water?

**Mr. G. S. Bajpai:** I do not think that those who are not so generous in using water as those who have 90 gallons per day do not maintain cleanliness in their quarters.

#### INSTALLATION OF WATER METERS IN CLERKS' QUARTERS IN NEW DELHI.

**1088. \*Pandit Satyendra Nath Sen:** (a) Is it a fact that the rent of the Government quarters in New Delhi is assessed for each building at a sum calculated to cover cost of (1) interest charges on the capital cost, (2) maintenance charges, and (3) municipal and other taxation and that the amount of rent that can be recovered from each individual tenant is limited to 10 per cent. of his pay?

(b) Is it a fact that the value of the land under buildings, intended for rental purposes, is calculated on the total outlay?

(c) Is it a fact that, *vide* the replies of Col. Sir S. Crookshank to question No. 281 on the 19th September, 1921, in this House, the tenants of the Government quarters pay "for the cost of water and electric current" supplied in addition to the rent paid and also pay "rent on the cost of water, electric and sanitary installations in addition to the rent of the building"? If so, why are meters being installed now on the water supplied to the tenants?

(d) Are these meters installed for (1) restricting the supply of water or (2) for imposing further taxation on the tenants for the water supplied?

(e) If the reply to part (d) (1) be in the affirmative, what is the motive of the Government underlying it and how are they going to restrict?

(f) Will Government please state precisely on the basis of what resolution of the Governor-General in Council or any supplementary rules the Government want to impose this tax?

**The Honourable Sir Frank Noyce:** (a) Yes, but subject to a maximum limit of 10 per cent. of the occupier's emoluments. Municipal and other taxes in the nature of house and property tax payable by Government in respect of each residence is included in this calculation of rent.

(b) No.

(c) and (d). The reply given by Colonel Sir Sydney Crookshank in 1921 indicated the procedure in force prior to the issue of the Fundamental Rules in accordance with which in the New Delhi residences the cost or value of sanitary, water supply and electric installations and fittings is now taken into calculation in the assessed rent which is, however, as I have said before, limited to 10 per cent. of the occupant's emoluments.

Meters are installed to check wastage of water and to determine the amount consumed. Charges for water consumed are a different matter from the rent of water supply installations and form no part of the assessed rent levied by Government.

(e) and (f). Do not arise.

#### ADDITIONAL WATER TAX FOR CLERKS QUARTERS IN NEW DELHI.

1089. \*Pandit Satyendra Nath Sen: (a) What is the proper and clear explanation of the Supplementary Rules 325 and 334?

(b) With reference to correction list Nos. 229 and 230, dated the 29th March, 1932, will Government please state whether the tenants will have to pay anything in addition to what they are paying already as water tax, etc., or will rule (3) of the Supplementary Rules 325 and 334 be applied in this case?

(c) What is the cost of construction of different types of quarters for the subordinate staff?

(d) Was the revision of rent made on the introduction of the Fundamental Rules on the cost of construction of the quarters and on the special services?

The Honourable Sir Frank Noyce: (a) The rules appear to me to be sufficiently clear.

(b) The amended sub-rules contained in correction lists 229 and 230 apply to electric energy and water supplied by Government to residences. If the Honourable Member's question refers to New Delhi I may point out that, as electric energy and water are supplied here to residences by the Municipality, there is no question of any charge levied by Government under these sub-rules.

(c) The average cost of Orthodox clerks' quarters in New Delhi, to which, I take it, the Honourable Member is referring, is:

Class.	Cost per quarter including engineering services.
A. . . . .	7 620
B. . . . .	6 777
C. . . . .	4 318
D. . . . .	3 239
E. . . . .	3 444

(d) Yes.

POPULATION OF NEW DELHI.

1090. \***Pandit Satyendra Nath Sen**: (a) Will Government be pleased to lay on the table a statement showing:

- (1) Total population of New Delhi;
- (2) Total population in all the clerks quarters living during this cold season;
- (3) Total population in the clerks quarters during the last summer season and that will remain during the next summer;
- (4) Total population living in all the gazetted officers quarters during this season;
- (5) That will remain during the next hot weather;
- (6) Total non-official population in residence during this season;
- (7) That will remain during the next hot weather;
- (8) Water consumed approximately per month in the clerks quarters
  - (1) during the winter 1932-33, (2) during hot weather 1932,
  - (3) which is expected to be consumed during the summer season 1933; and
- (9) Also water consumed by the non-official public during the hot weather 1932 and winter 1932-33?

- (b) Why is there no water supply system on the roads of New Delhi?
- (c) Is it a fact that the population of New Delhi is increasing?
- (d) If so, do Government propose to impose a tax on the population to check the overcrowding?

**Mr. G. S. Bajpai**: Enquiries have been made and the information will be furnished to the House in due course.

NAMING OF ROADS IN NEW DELHI.

1091. \***Bhai Parma Nand** (on behalf of Mr. S. G. Jog): (a) Will Government please state on what basis the different names are given to different roads in New Delhi?

(b) If the names are given on the historical importance of the persons, was there any record collected with reference to the persons whose names have been associated with these roads?

(c) Are Government prepared to consider any suggestions to associate the new roads with the names of other persons or families who are of great historical importance?

(d) Are Government aware that the Peshwas from Poona, have played a very important part in the history in the seventeenth and eighteenth centuries as warriors and statesmen and had great influence in the Court at Delhi?

(e) Are Government aware that the Scindia family and particularly Mahadaji Scinde had played an important part and was a personage of great influence?

(f) Do Government propose to associate some roads with the names of the two great families?

**The Honourable Sir Frank Noyce:** (a) and (b). The names of the roads were settled in personal discussion in 1919 and definite information regarding the basis on which the names were selected is not available.

(c) I shall be happy to receive any reasonable suggestions in the matter, and to give them due consideration when a suitable opportunity offers itself.

(d) and (e). I have no reason to doubt the accuracy of my Honourable friend's historical knowledge.

(f) The suggestion will be considered when there is a further occasion for naming streets in New Delhi.

**Mr. K. C. Neogy:** With reference to answer to part (c), will the Honourable Member be pleased to consider the desirability of naming the new roads after the names of some distinguished Members of the Assembly?

**The Honourable Sir Frank Noyce:** I doubt, Sir, if any opportunity for naming new roads will occur during my term of office.

INDENTS PLACED BY THE GREAT INDIAN PENINSULA RAILWAY WITH THE  
INDIAN STORES DEPARTMENT.

1092. **\*Mr. Uppi Saheb Bahadur:** (a) Will Government be pleased to state the number of indents of the value of Rs. 5,000 and above that were placed by the Great Indian Peninsula Railway with the Indian Stores Department during the current year upto 23th February, 1933, in which the delivery terms were immediate?

(b) Is it a fact that on account of such immediate delivery terms, lowest tenders for forward delivery of such articles could not be accepted? If so, will Government be pleased to state the reasons why the Great Indian Peninsula Railway indented with immediate delivery terms?

(c) Will Government be pleased to lay on the table a statement giving the following details of the indents of the Great Indian Peninsula Railway:

- (1) Number and date of the indent,
- (2) The officer who indented,
- (3) Names of the articles of stores indented,
- (4) Quantity of the stores indented,
- (5) Firms from which such stores were purchased,
- (6) The rate at which the materials were purchased,
- (7) Lowest quotation received for such articles for forward delivery,
- (8) The reasons for such articles being indented with immediate delivery terms and why earlier indents could not be sent in such case,
- (9) The extra cost involved on each of such indents?

**Mr. P. R. Rau:** Any information that is readily available will be collected and laid on the table when received.

**ABSENCE OF A WATER TAP ON THE UNAO RAILWAY STATION.**

1093. \***Rai Bahadur Lala Brij Kishore:** Are Government aware that there is no water tap in Unao Railway Station which is a junction station, and if so. will Government be pleased to state what necessary action they propose taking in the matter to remove the inconveniences caused to the passengers?

**Mr. P. R. Rau:** Government have no information, I am sending a copy of the question to the Agent, East Indian Railway, for any action he may consider necessary.

**Rai Bahadur Lala Brij Kishore:** Can I expect an answer in this Session?

**Mr. P. R. Rau:** I am afraid I could not catch the Honourable Member.

**Dr. Ziauddin Ahmad:** Is the reply expected at all?

**Mr. P. R. Rau:** I do not think so. This is a matter within the competence of the local authorities.

**LIABILITY OF OFFICERS OF THE UNAO RAILWAY STATION TO PAY MUNICIPAL TAXES.**

1094. \***Rai Bahadur Lala Brij Kishore:** Is it a fact that all officers of Unao Railway Station are liable to pay municipal taxes; if so, why should they be made liable to pay the taxes? Do they make their own arrangement for water, lighting and sweepers?

**Mr. P. R. Rau:** Government have no information. The question whether they are liable to pay Municipal taxes or not depends on the relevant Acts.

**GRADES OF ASSISTANT STATION MASTERS ON THE EAST INDIAN RAILWAY.**

1095. \***Rai Bahadur Lala Brij Kishore:** (a) Will Government be pleased to state, if it is a fact that there is only one grade for Indian Assistant Station Masters on the old East Indian Railway section irrespective of the fact whether the Assistant Station Master is serving on a small road side station or big stations like Etawah, Mirzapur, etc., although the grades of Station Masters on their stations are higher than those obtaining at other stations?

(b) If the answer to part (a) be in the affirmative, are Government prepared to consider the advisability of bringing the Assistant Station Masters in line with Station Masters in this matter?

**Mr. P. R. Rau:** Government have no information but I have sent the Honourable Member's question to the Agent, East Indian Railway, for information and such action as he may deem necessary.

**PROMOTION OF INDIAN ASSISTANT STATION MASTERS TO THE POSTS OF PLATFORM ASSISTANTS ON THE EAST INDIAN RAILWAY.**

1096. \***Rai Bahadur Lala Brij Kishore:** (a) Will Government be pleased to state, if it is a fact that on old East Indian Railway section Indian Assistant Station Masters are debarred from promotion to the posts of Platform Assistants at big junction stations and promotion to these posts

is made from Railway guards? Is it not a fact that no Indian Assistant Station Master has been promoted to these posts on the old East Indian Railway section?

(b) If the answer to part (a) be in the affirmative, are Government prepared to consider the advisability of promoting Indian Assistant Station Masters to these posts?

**Mr. P. R. Rau:** I am obtaining information and will lay a reply on the table in due course.

#### RECRUITMENT OF MUSLIMS IN THE PUNJAB POSTAL CIRCLE.

**1097. \*Sardar Sant Singh:** (a) When laying on the table the information promised in answer to starred question No. 816, asked by Seth Haji Abdoola Haroon, on the 21st March, 1938, will Government please also state whether the recruitment of Muslims alone has been ordered by Muslim Postal Superintendents in the Punjab in their respective Divisions?

(b) What is the present percentage of Sikhs in this Department in the Punjab?

**The Honourable Sir Frank Noyce:** (a) Government do not consider it necessary to make the enquiry suggested by the Honourable Member. The progress of recruitment is being so closely watched that they are satisfied that there can be no case in which such orders have been passed by a Superintendent. If however the Honourable Member is in possession of authentic information to the contrary and will furnish it to me I shall be happy to make an enquiry.

(b) 5·71 per cent.

**Sardar Sant Singh:** May I inquire why Government are ordering an inquiry in the case of Muslims and not in the case of Sikhs?

**The Honourable Sir Frank Noyce:** To the best of my recollection, I think we found that, in the case of Muslims, the allegation was unfounded and, therefore, unless we have definite reasons for doing so, we are not prepared to make an inquiry into this allegation. As I have said, if the Honourable Member can furnish me with any facts or some kind of evidence on which this question is based, I shall be very glad to go into it. But I am not prepared to examine a general allegation.

**Sardar Sant Singh:** May I inform the Honourable Member that even in the Lyallpur district certain orders were received by the Superintendent posted there that Muslims alone are to be recruited in postal service there, and that this is not the only instance, but that there are other cases too in the Punjab?

**The Honourable Sir Frank Noyce:** As the Honourable Member has now furnished me with a specific instance, I shall be glad to examine the question. I should, however, be grateful if he could give me some idea of the date when these orders were issued.

ACCOMMODATION PROVIDED TO THE OFFICERS OF THE NORTH WESTERN RAILWAY.

1098. \*Lieut.-Colonel Sir Henry Gidney: With reference to the answer to starred question No. 781 on the 20th March, 1933, will Government please state whether it is a fact that officers of the North Western Railway receive a larger amount of accommodation than is justified by the actual rent paid by them as compared with subordinates?

Mr. P. R. Rau: The rents of both officers and subordinates quarters are assessed on the accommodation provided, which is based on the floor areas of rooms, verandahs, etc., but the rates per 100 square feet of floor area are higher in the case of officers' quarters than on subordinates quarters. The rents recoverable from occupants whether officers or subordinates are also subject to a maximum limit of 10 per cent. of the then emoluments. The designs of the various classes of quarters and the accommodation provided in each case are regulated so as to ensure, as far as practicable, a uniform return on their capital costs.

Lieut.-Colonel Sir Henry Gidney: Is it a fact that quite recently a certain revaluation and re-assessment of rent for officers has been made on the North Western Railway which has placed officers in a much more favourable position than subordinates?

Mr. P. R. Rau: I am not aware of any such revaluation.

Lieut.-Colonel Sir Henry Gidney: Is it or is it not a fact that the rent of Railway subordinates has been increased lately by nearly 70 per cent?

Mr. P. R. Rau: I think this question was asked by the Honourable Member some time ago and I told him that I was not aware of any such thing happening on the North Western Railway.

Lieut.-Colonel Sir Henry Gidney: Is it or is it not a fact that it has happened in other Railways?

Mr. P. R. Rau: I think, Sir, my Honourable friend brought to my notice some such thing in the East Indian or the Eastern Bengal Railway.

Lieut.-Colonel Sir Henry Gidney: Yes, I did in the East Indian Railway.

PERSONS RECEIVING HONOURS IN THE CENTRAL PROVINCES AND BERAR.

1099. \*Bhai Parma Nand (on behalf of Mr. S. G. Jog): (a) Is it not a fact that the Honours' List is issued twice a year?

(b) Is it not a fact that the number of persons receiving honours in the Central Provinces and Berar is poorer as compared with the other Provinces?

Mr. H. A. F. Metcalfe: (a) Yes.

(b) No. Taking into consideration their size, population and other circumstances, the Central Provinces and Berar have not been treated unfavourably in the matter of honours in comparison with other Provinces.



**Mr. Amar Nath Dutt:** Will it not facilitate the business of this House if the Honours List is issued monthly during the Assembly Session?

**Mr. H. A. F. Metcalfe:** I cannot undertake that that shall be done.

**Mr. Gaya Prasad Singh:** Do Government propose to abolish the conferment of so-called Honours on non-official gentlemen so as to place them beyond the reach of temptation?

**Mr. H. A. F. Metcalfe:** I have heard of no such proposal at present.

**Mr. S. C. Mitra:** Is it not a fact that we have one Knight from the Central Provinces in this House and another Knight from that province in the other House?

**Mr. H. A. F. Metcalfe:** The Honourable Member can ascertain that information from the Assembly list.

**Mr. Lalchand Navalrai:** May I know if these titles and Honours are conferred upon people in other countries also besides the United Kingdom and India?

**Mr. H. A. F. Metcalfe:** I think most countries have some form of decoration which they give to deserving subjects.

**Mr. Lalchand Navalrai:** Will the Honourable Member be pleased to state what is the system in America?

**Mr. H. A. F. Metcalfe:** I cannot undertake to state that as I have no information on the subject.

**Mr. Lalchand Navalrai:** Will the Honourable Member say about Canada?

**Mr. H. A. F. Metcalfe:** So far as I am aware, decorations in Canada are given by His Majesty the King-Emperor.

**Mr. Amar Nath Dutt:** May I know the minimum qualifications for a Knighthood and all the other titles lower down? (Laughter.)

**Mr. H. A. F. Metcalfe:** I have no information on that subject either.

#### PROPOSED DEMOLITION OF CERTAIN HOUSES IN THE SECUNDERABAD CANTONMENT.

1100. **\*Khan Bahadur Haji Wajihuddin:** (a) Are Government aware that in the Secunderabad Cantonment notices under section 138 Cantonments Act of 1924 have been issued by the Executive Officer to about 600 house-owners, requiring them to demolish their houses within one month from the date of the receipt of the notices?

(b) Is it a fact that these notices have been issued on the plea of removing congestion in a locality of the cantonment alleged to be thickly populated by the Indians?

(c) Are Government aware that those notices have been issued in pursuance of a town-planning scheme for opening a new central road 84 feet wide, through the heart of the cantonment with a view to connecting Bolaram with Secunderabad by a direct road?

(d) Is it a fact that the notices mentioned above contemplate not only the clearing of a strip of land 84 feet wide along a distance of about one mile required for the road but the acquiring, by demolition of houses, of land 270 feet wide, measuring about 45 acres in all and that after this area is cleared, there will be left open land 93 feet wide on either side of the road, which it is intended to divide into building sites to be sold by auction for the construction of new houses on an approved design?

(e) Are Government aware that the Cantonment Authority expects to realise about Rs. 14 lakhs by sale of these building sites?

(f) Are Government aware that the estimated cost of carrying out the whole scheme is about Rs. 12 lakhs and the people believe it to be more a business proposition than that of public health? What have Government to say to remove this impression?

(g) Is it a fact that more than 2,000 families reside in the 600 houses proposed to be demolished and more than ten thousand persons will be unhoused if the demolition orders are carried out?

(h) What arrangements have Government made to provide shelter and house-accommodation to these 2,000 families, after the present houses are demolished?

(i) Are Government aware that the hot and rainy months in Secunderabad are very oppressive? What arrangements, if any, have Government made to protect such a large number of people from the sun and the rain?

(j) Is it a fact that the notice issued by the Executive Officer does not contain therein any reference to the orders of the Cantonment Authority under which that notice has been issued, nor is a copy of those orders enclosed with the notice?

(k) Have the house-owners concerned pointed out that the notice is invalid? What are the objections of the house-owners to the validity of the notice? How do Government propose to meet those objections?

(l) Has the Cantonment Authority of Secunderabad obtained the sanction of the General Officer Commanding-in-Chief, Southern Command, for opening the new road under section 192 of the Cantonments Act? If so, has a reference to this sanction been given in the notice? If not, why has the sanction not been obtained and why were the notices under section 198 issued without obtaining such sanction?

**Mr. G. R. F. Tottenham:** With your permission, Sir, I propose to answer questions Nos. 1100, 1101 and 1102 together.

The Government of India are aware that a town planning scheme for the removal of congestion is being carried out in Secunderabad; but they have no detailed information regarding the nature of the action taken. I am, however, making enquiries and will lay a further reply on the table in due course.

**PROPOSED DEMOLITION OF CERTAIN HOUSES IN THE SECUNDERABAD CANTONMENT.**

†1101. \*Khan Bahadur Haji Wajihuddin: (a) Are Government aware that section 252 explicitly requires that sufficient and reasonable time be allowed whenever a Cantonment Authority issues a notice to have some work done? Are Government aware that even civil courts allow a period from one month to six months to ordinary tenants for vacating a house and shifting to a new one?

(b) Do Government realise that in the case of notices issued to house-owners in Secunderabad Cantonment, it is not temporary shifting but permanent vacating of a house bag and baggage with a view to demolishing it subsequently, and are Government aware that the house-owners consider this one month's period insufficient?

(c) Are Government aware that in some cases the people have been living in these houses for generations together?

**PROPOSED DEMOLITION OF CERTAIN HOUSES IN THE SECUNDERABAD CANTONMENT.**

†1102. \*Khan Bahadur Haji Wajihuddin: (a) Is it a fact that out of the 600 houses sought to be demolished in Secunderabad Cantonment, there are many which are quite well-built and airy? Why are those houses proposed to be demolished? How does their existence effect public health prejudicially?

(b) Are Government aware that there is a special law called the Hyderabad Administered Areas Town Improvement Law, 1931, which governs town-planning schemes and this law is in force in Secunderabad?

(c) Is it a fact that the house-owners concerned have represented that in the face of this special law, a recourse to section 138 of the Cantonments Act is *ultra vires*? Is it a fact that the Hyderabad Administered Areas Town Improvement Law, 1931, is a later enactment than the Cantonments Act?

(d) Is it a fact that the scheme was at first proposed by the Town-Planning Committee of Secunderabad, constituted under the provisions of the Hyderabad Administered Areas Town Improvement Law, 1931? If so, why was the Cantonments Act resorted to?

(e) Have the house-owners represented that the prices offered for the 600 houses proposed to be demolished are very low and are far less than their actual cost and the market value?

(f) Have the house-owners whose houses are to be demolished in the scheme been offered new sites for building new houses? Is it a fact that these sites are being given at high prices and are situated near the graveyard and that the persons concerned are unwilling to take them for these reasons?

(g) What is Government's object in getting 93 feet land cleared on either side of the proposed road? Why do Government wish new houses to be built on both the sides of the road? How would this improve public health?

(h) Is it a fact that the people applied to the local authorities for permission to hold a meeting of protest against the scheme and the methods employed to carry it out? Is it a fact that this permission was not granted? Will Government state the reasons for refusing this permission?

(i) Are Government aware that there is a great agitation among the people of Secunderabad on account of this scheme? How do Government propose to allay this agitation? Do Government propose to appoint a Committee consisting of the representatives of the house-owners concerned to consider this proposal in all its aspects?

(j) Is it a fact that the house-owners are willing to improve the houses and make them bright and airy? Have they been consulted to suggest an alternative scheme less injurious to their interests?

(k) Are Government aware of the great calamity it is, from the point of view of the people, for about 10,000 people to be thrown out of their houses? What steps do Government propose to take to avert or mitigate the hardship of this impending calamity?

**REMOVAL OF MR. JAGAN NATH PRASAD FROM THE MEMBERSHIP OF THE CANTONMENT BOARD, JUBBULPORE.**

1103. \*Khan Bahadur Haji Wajihuddin: (a) Is it a fact or is it not a fact that Mr. Jagan Nath Prasad, an elected member of Cantonment Board, Jubbulpore, has been removed from the membership of the Board by the Local Government under the provisions of section 34(2) of the Cantonments Act?

(b) Is it a fact or is it not a fact that the removal has taken place for the alleged participation of Mr. Jagan Nath Prasad in a public procession taken out on 7th February, 1931, to express sorrow at the demise of Pandit Moti Lal Nehru and in the shouting of some alleged objectionable slogans in public streets in the course of the progress of that procession?

(c) Is it a fact that the All-India Cantonments Association represented to Government that the above acts, even if true, were not done by Mr. Jagan Nath Prasad, in his capacity as a member of the Cantonment Board and that even if those allegations were opposed to law, he should have been proceeded against according to the ordinary law of the land but these did not form a ground for proceeding under section 34(2) of the Cantonments Act?

(d) How do Government know that Mr. Jagan Nath Prasad joined the procession and in the shouting of the slogans as a member of the Board?

(e) Are Government aware that the All-India Cantonments Association considers it as a gross abuse of section 34(2) of the Cantonments Act?

(f) Are Government aware that Jubbulpore people unanimously protested against Mr. Jagan Nath Prasad's removal and considered it as a great encroachment upon one's rights of personal freedom?

(g) Was Mr. Jagan Nath Prasad given an opportunity to show cause against his removal, and if so, in what manner? Who wrote to him about showing such a cause? Did he submit any explanation? If so, what was the gist of his explanation? Will Government be pleased to lay the correspondence on the table?

(h) Are Government aware that even an elected member of a Board has private and public life as distinct from his life as a member of the Board?

(i) Are Government aware that great discontent is prevailing among the people of Cantonments throughout India for taking such drastic measures on the part of Cantonment Authorities in a certain part of the country? Do Government realize their duty to allay the discontent?

(j) With a view to preventing its recurrence in future, are Government prepared to consider the advisability of issuing orders for the guidance of the local authorities without delay?

**Mr. G. R. F. Tottenham:** The facts stated in the first two parts of the question are, I believe, substantially correct. Under section 34(2) of the Cantonments Act, 1924, the question of the removal of a member from a Board is primarily the concern of the Local Government, and the Government of India have no reason to question the decision arrived at by the Central Provinces Government in the case of Mr. Jagan Nath Prasad.

**CONSTRUCTION OF THE OFFICE BUILDING OF THE CANTONMENT AUTHORITY OF RAWALPINDI ON THE GROUNDS OF THE LANSDOWNE INSTITUTE.**

1104. **\*Khan Bahadur Haji Wajihuddin:** (a) Is it a fact that the All-India Cantonments Association in its interview with the Army Secretary in June, 1932, brought to his notice that the Cantonment Authority of Rawalpindi was building its own office on the grounds of the Lansdowne Institute and was using its main building for a cinema?

(b) Are Government aware that the Lansdowne Institute is a charitable public building, erected by the grand-father of Sardar Sohan Singh at his own expense for public use and that there was a public library in the main building for a long time and that the grounds were used by the public for purposes of recreation?

(c) Is it a fact that the founder of the institute put it in charge of the officers of the District as trustees, who in their turn, transferred the trust to the Cantonment Authority, Rawalpindi?

(d) Is it a fact that the Cantonment Authority gave the main building on rent for a cinema, constructed its own office on a large portion of the grounds and also allowed another portion of the grounds to be built over by a cinema proprietor on rent?

(e) Is it a fact that these acts of the Cantonment Authority converted a public place of recreation into a business building and are Government aware that the Rawalpindi people greatly resented the same?

(f) Is it a fact that after a lot of discussion with the All-India Cantonments' Association, the Army Secretary on behalf of Government, undertook as a compromise to direct the Cantonment Authority that the main building be used as before as a public library and not for a cinema and that there should be no further construction on the open grounds that were left?

(g) Are Government aware that quite against the above assurance, the Cantonment Authority again rented the building for a cinema?

(h) Will Government be pleased to state why the assurance was not carried out by the Cantonment Authority of Rawalpindi, and have Government approved of the giving of the building constructed for public good, on rent for a cinema?

**Mr. G. R. F. Tottenham:** (a), (b) and (c). The answer is in the affirmative.

(d) It is true that about 2 years ago a second building was erected by the Lansdowne Trust (on the Government land adjoining the existing building). This new building is now used as a free public library, while the original building has been leased out as a Cinema, in order to provide the Trust with funds for the upkeep of the Library and the maintenance of both buildings.

The Cantonment Authority as Trustees of the Lansdowne Institute have every right to use the buildings in whatever way appears to them to be in the best interests of the public, to whom the trust is dedicated; and in their position as Trustees they are not subject to the control of the Government of India.

(e) Government have no reason to believe that this is the case.

(f) I gave no such undertaking. All that I promised to do—and did—was to bring the views of the Association to the notice of the local authorities.

(g) and (h). As I have already explained, the discretion lies with the Trustees of the Institute and Government have no legal power to interfere with the exercise of that discretion.

#### LANDSDOWNE INSTITUTE, RAWALPINDI.

**1105. \*Khan Bahadur Haji Wajihuddin:** (a) When did the Lansdowne Institute, Rawalpindi, come under the management and control of the Cantonment Authority, Rawalpindi? Who entrusted the management to that body and under what conditions?

(b) What was the area of open land connected with the institute at the time it was handed over to the Cantonment Authority?

(c) How much of that has since been built over, by whom and under what terms?

(d) What is the amount of the total income that the Cantonment Authority has derived from the institute and its open grounds since it has assumed control of the same?

(e) What is the present financial position of the institute? What is the present monthly income and how is it spent?

(f) How much land was originally given to the founder of the institute and on what terms? Was any lease or other agreement executed by him?

(g) Are Government aware that the building is worth about one lakh of rupees and that a great institution of public good has been practically lost to the Rawalpindi public?

(h) How much land has been taken for the erection of the office of the Cantonment Authority? Who selected this site for the office building? How has this been transferred into C class land, and if so, when and by whom? If not how have the provisions of section 108 of the Cantonments Act been satisfied?

**Mr. G. R. F. Tottenham:** (a) The Lansdowne Institute Trust was transferred on the 17th August, 1897, to the Cantonment Committee of Rawalpindi, on the sole condition that the Committee should keep the buildings in good repair.

(b) and (c). The trust relates to the buildings only, and not to any adjoining land.

(d) and (e). I have no information.

(f) There is no record of any land having been granted to the Founder of the Institute.

(g) Government have not had occasion to value the building, but they have no reason to believe that it has been lost to the Public of Rawalpindi.

(h) Government sanctioned the transfer of 10,120 square feet of land in Rawalpindi Cantonment to the local Cantonment Authority for the construction of a Cantonment Board Office and garages.

#### BUILDINGS IN THE AMBALA CANTONMENT.

1106. **\*Khan Bahadur Haji Wajihuddin:** (a) Is it a fact that in the Ambala Cantonment, hundreds of buildings have been allowed on sanctions, with warnings with regard to land, included in the site, but not in private occupation according to the survey plan or the G. L. R.?

(b) Is it a fact that the object of the warning is that in case the building would be erected on the portion about which the warning is given, the Government or their Agent, the Cantonment Authority, would take action to get that building demolished and to recover the land thus lost?

(c) Will Government be pleased to state in how many cases, such action has been taken by the Cantonment Authority of Ambala or any other land officer of the Government?

(d) Is it a fact that under a similar sanction, a member of the Cantonment Board, Ambala, has constructed a huge building on Cross Road No. 2, near the Muslim Primary School? Is it a fact that a portion of the site measuring about 1,500 square feet was vacant Government land, not in his occupation and he was warned not to construct over it?

(e) Will Government state what action they propose to take in this and other similar cases to recover the strips of land lost in this manner?

(f) Have Government consulted their legal adviser as to the action of the member in question coming within the purview of section 34 (2) of the Cantonments Act? If not, do Government propose to draw the attention of the Local Government to this?

**Mr. G. R. F. Tottenham:** I have called for information, and will place a reply on the table in due course.

#### TAXATION IN THE SUBATHU CANTONMENT.

1107. **\*Khan Bahadur Haji Wajihuddin:** (a) Has the attention of Government been drawn to an article published in the "*Cantonment Advocate*" for November, 1932, under the heading "Taxation in Subathu Cantonment"?

(b) Is it a fact that the All-India Cantonments Association in its interview with the Army Secretary in June, 1932, brought to his notice that taxation in some Cantonments was very heavy and the Army Secretary promised to make an enquiry into the matter?

(c) Has that enquiry been made? If so, with what result? If not, at what stage is the enquiry and when is it likely to be completed?

(d) Are Government prepared to direct this enquiry to be made in the case of the Sabathu Cantonment as well?

**Mr. G. R. F. Tottenham:** (a) I have seen the article.

(b) Yes.

(c) Government have made an enquiry the general result of which is to show that taxation in cantonments is not heavier than in municipalities. There are, however, a limited number of cantonments in which the incidence of taxation is higher than in the neighbouring municipality and these cases are being further examined.

(d) The question of taxation in Sabathu Cantonment is one of those which are under examination.

**PRIVATELY-OWNED BUNGALOWS IN THE KOHAT, PESHAWAR AND RAWALPINDI CANTONMENTS.**

**1108. \*Khan Bahadur Haji Wajihuddin:** (a) Will Government please state the number of privately-owned bungalows in the Kohat, Peshawar, and Rawalpindi Cantonments?

(b) How many of these are occupied by the owners?

(c) How many bungalows do Government propose to acquire on the plea of resumption of sites in those Cantonments and how many of this number are in occupation of the owners at present?

(d) From where do Government derive their right of resumption?

(e) Are there any documents in possession of Government specifically referring to the sites of these bungalows as to their being old grants under the old Bengal regulations giving Government a right to resume the sites?

(f) What are Government's reasons to presume that these sites cannot but be old grants made under the above rules?

(g) Do the Bengal Regulations apply to sites in the Kohat, Peshawar and Rawalpindi Cantonments? If so, how?

(h) Is it not a fact that in many Cantonments there is a lot of private land, not acquired or purchased by Government for the purposes of the Cantonment but added to it subsequently to bring the environments of the Cantonment under the sanitary control of the Cantonment Authority?

(i) If the answer to part (h) be in the affirmative, how do Government, in the absence of a definite record bearing on the subject, discriminate between sites originally owned by Government and given away as grants and privately-owned sites?

(j) Are Government acquiring these bungalows by resuming their sites?

(k) Is it a fact that all this is being done on the plea of meeting military requirements for additional accommodation for military officers?



(l) How many of the bungalows now sought to be acquired are already occupied by the military officers? How will the situation regarding accommodation be improved by Government becoming the owner after acquisition instead of a private individual in case of those bungalows?

(m) Is it a fact that the House-owners of those Cantonments are willing to build new bungalows on portions of old sites or on new building sites available in the Cantonments and to reserve them for military officers?

(n) What are Government's reasons for rejecting this offer?

(o) Are Government aware that the general impression in the cantonments is that one of the objects of this Government move is to prevent Indians from living in Cantonment bungalows?

(p) Is it a fact that this resumption or acquisition does not apply to bungalows occupied by non-military Europeans and Anglo-Indians?

(q) Are Government aware that the above feeling was expressed by the house-owners of Peshawar in their representations to His Excellency the Governor of the North-West Frontier Province and to General Orton, Deputy Quarter Master General?

(r) Have Government been informed that the action of Government in resuming or acquiring bungalows in this manner has created quite a consternation among the house-owners in the cantonments and that there is a general feeling among them, growing as the land policy of Government is gradually manifesting itself, that the Government's assurance that in conducting the cantonment administration it is equally alive to the interests of house-owners, is not carried out in practice?

(s) Do Government propose to reconsider the action taken and to suspend these resumption and acquisition proceedings till the other means of meeting military needs for additional house accommodation for military officers are tried?

**Mr. G. R. F. Tottenham:** (a) and (b). I have no precise information; but I informed the house a few days ago that there are about 132 privately owned bungalows in Peshawar.

(c) Government are at present acquiring 20 bungalows in Peshawar of which 5 are occupied by owners, 9 in Kohat of which 2 are occupied by owners, and 7 in Rawalpindi none of which is occupied by the owner.

(d) From the conditions on which the sites are held.

(e) to (i). It would take too long to explain all the evidence on which the title of Government is based; but there is a well known decision of the Privy Council to the effect that all land in cantonments must be presumed to be the property of the State in the absence of evidence to the contrary. It is possible that in some cantonments there is land with regard to which this presumption could be readily rebutted, but the Government title in the cantonments of Peshawar, Kohat and Rawalpindi rests on particularly strong positive evidence and no evidence of private ownership has been produced by the owners of the sites now in question.

(j) and (k). Yes, Sir.

(l) I understand that in Peshawar 6 bungalows are already occupied by military officers, in Kohat 5, and in Rawalpindi 6. The advantage of acquiring these bungalows is that Government will be enabled to keep

them in a proper state of repair, charge a reasonable rent for them and, possibly, utilise some of the spare land in the compounds for the construction of additional bungalows when necessary.

(m) Some of the owners have made such an offer.

(n) Because acceptance would amount to a repetition of the policy which has led to the present difficulties. Moreover similar offers have been repeatedly made and accepted in the past but have produced no practical results.

(o) There is certainly no justification for such an impression, because some of the bungalows are being acquired from Europeans and will be used for the accommodation of Indian military officers.

(p) No.

(q) Yes.

(r) Government are aware of the feelings of the house-owners on the subject.

(s) No, for the reasons given at length in the Press Communiqué which was issued on the subject on March 14th, 1933, and a copy of which will be placed in the Library of the House.

## UNSTARRED QUESTIONS AND ANSWERS.

### ENHANCEMENT OF WATER TAX IN THE TIMARPUR QUARTERS, DELHI.

**170. Mr. Goswami M. R. Puri:** Are Government aware of the great discontent among the Delhi Divisional Superintendent's office clerks of the North Western Railway living in Timarpur Government quarters, due to the Notified Area Committee, Delhi, having enhanced the water-tax from Rs. 1/8/0 to 2/8/0 irrespective of pay, type of quarters and their area? Are Government aware that in the Raisina Municipality, where taps are running 24 hours, the charge is only Re. 1 per tap? Has any representation been received by the Commissioner? If so, with what result?

**Mr. G. S. Bajpai:** Enquiries have been made and the result will be communicated to the House in due course.

### TENURE OF OFFICE OF THE DIVISIONAL PERSONNEL OFFICERS ON THE NORTH WESTERN RAILWAY.

**171. Mr. Goswami M. R. Puri:** Is there any rule or system that the Divisional Personnel officers over the North Western Railway are not allowed to work more than three years in any one Division? If so, does it not apply in the case of the Divisional Personnel Officer, Delhi? If not, why not?

**Mr. P. R. Rau:** Government is not aware of any rule which prevents a Divisional Personnel Officer on the North Western Railway from being employed for more than three years on any one Division. The latter part of the question does not arise.

### WANT OF A HINDU COOK IN THE NORTH WESTERN RAILWAY GUARDS RUNNING ROOM AT NEW DELHI.

172. **Mr. Goswami M. R. Puri:** Why is no Hindu cook provided in North Western Railway guards running room at New Delhi? Are Government aware of the serious troubles the Hindu guards are suffering for want of a Hindu cook?

**Mr. P. R. Rau:** Government have no information but I have sent a copy of the Honourable Member's question to the Agent, North Western Railway, for information and any action that he may consider necessary.

### TIME TAKEN BY THE DELHI UNIVERSITY IN EXAMINING MATRICULATION CANDIDATES.

173. **Mr. Goswami M. R. Puri:** Are Government aware of the lengthy time the Delhi University takes in examining the Matriculation students? Are Government prepared to curtail this time by giving two papers a day?

**Mr. G. S. Bajpal:** Presumably the Honourable Member's question refers to the High School Examination conducted by the Board of Secondary Education, Delhi. Two papers of three hours duration each are given every day in this examination.

### MEDICAL EXAMINATION OF THE SUBORDINATE STAFF OF THE NORTH WESTERN RAILWAY.

174. **Mr. Goswami M. R. Puri:** (a) Is it a fact that 99 per cent. of the subordinate staff failed by the District Medical Officer, North Western Railway, Delhi, pass when examined by the Chief Medical Officer, Lahore? Will Government be pleased to state the reason for it? Which of these two authorities Government thinks wrong?

(b) Are Government aware that the period of a month or over between these two examinations is not passed by the North Western Railway as with pay but deducted out of leave due to such a staff? If so, why?

**Mr. P. R. Rau:** Government have no information but I have sent a copy of the Honourable Member's question to the Agent, North Western Railway for information and such action as he may consider necessary.

### ISSUE OF PASSES TO THE STATE RAILWAYS STAFF.

175. **Mr. Goswami M. R. Puri:** Is it a fact that the railway officers get through passes over all State Railways, and that there is a restriction in the case of subordinates only and especially for the third class passes? If so, why? Are Government prepared to amend the new pass rules to enable the subordinate staff to get through passes over all State Railways freely?

**Mr. P. R. Rau:** Subordinates are eligible for passes over foreign railways in accordance with rules framed by the Indian Railway Conference Association. Government do not consider that there is any necessity for giving greater privileges than the present rules allow.

**COMPILATION OF A BOOK CONTAINING INFORMATION ON PERSONAL MATTERS  
FOR USE OF STAFF ON STATE RAILWAYS.**

**176. Mr. Goswami M. R. Puri:** Are Government aware that there is no rule book on any State railway regulating the punishment of the staff? Do Government propose to compile a book containing information on all personal matters and distribute the same freely to the staff? If not, why not?

**Mr. P. R. Rau:** Government consider that it is impracticable to lay down any definite rules on the subject of punishments to be awarded in any case. The disciplinary action to be taken in each case will depend on the circumstances of the case. There is no reason to believe that the staff suffer any hardship on account of the fact that there is not such a compilation.

**ISSUE OF LOCAL PASSES TO SUBORDINATE STAFF ON STATE RAILWAYS.**

**177. Mr. Goswami M. R. Puri:** (a) With reference to the reply to my question No. 1651 (Volume VII, No. 9, dated the 12th December, 1932, of the Legislative Assembly debate book), in which it was stated that all State Railways are owned by one Government and are simply divided into different systems for management convenience, are Government prepared to place the pass rule on a common footing alike to all railway officials and officers?

(b) Do Government propose to amend the new pass rules so that the issue of passes over State Railways be treated as local passes and the limit of P. T. orders be removed?

**Mr. P. R. Rau:** I would refer the Honourable Member to the reply given to his question No. 175.

**INTER-TRANSFER OF STAFF ON STATE RAILWAYS.**

**178. Mr. Goswami M. R. Puri:** With reference to the reply to my question No. 1650, dated the 12th December, 1932, if Government are not prepared to invite applications for inter-railway transfers, are Government prepared to issue instructions to Railway officers concerned to consider such applications and exchanges favourably?

**Mr. P. R. Rau:** Government do not consider any such instructions are called for.

**ROSTERS REGARDING REST ON THE NORTH WESTERN RAILWAY.**

**179. Mr. Goswami M. R. Puri:** (a) Are Government aware that the rosters regarding rest on the North Western Railway are not in conformity with the amended Railway Act?

(b) Will Government be pleased to state where in the amended Railway Act it is permitted to take double and under rest duties for giving weekly rest?

(c) Is it not a fact that the East Indian Railway have extra staff for this purpose while the North Western Railway take double and under rest duties first and then give rest?

(d) Do Government propose either to give proper rest without double duty or totally stop it?

**Mr. P. R. Rau:** (a) No.

(b) It is not clear what the Honourable Member means by "double and under rest duties". There is no provision in the Indian Railways (Amendment) Act, 1930, for such duties.

(c) No. On both the East Indian and North Western Railways, additional staff required to give statutory effect to the Hours of Employment Regulations have been sanctioned.

(d) Rest periods, as provided in the Indian Railways (Amendment) Act, 1930, are enjoyed by the staff of the North Western Railway.

### MOTION FOR ADJOURNMENT.

#### WHOLESALE ARRESTS IN CONNECTION WITH THE CONGRESS SESSION IN CALCUTTA.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): I have received a notice from Mr. Lalchand Navalrai that he proposes to ask for leave to make a motion for the adjournment of the business of the House today, for the purpose of discussing a definite matter of urgent public importance, as follows:

"Wholesale arrests of the persons who were going or are going or intend to go to attend the National Congress at Calcutta in spite of the fact that the Indian National Congress is not an unlawful body."

I have to enquire whether any Honourable Member has any objection to this motion. (After a pause.) As no objection has been taken, I declare that leave is granted and that this motion will be taken up for discussion at 4 p.m. this afternoon, or soon after the termination of the business of the day, if it terminates earlier than 4 p.m.

### MESSAGE FROM THE COUNCIL OF STATE.

**Secretary of the Assembly:** Sir, the following Message has been received from the Secretary of the Council of State:

"I am directed to inform you that the Council of State has, at its meeting held on the 31st March, 1933, agreed without any amendment to the Bill to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary certain duties leviable under the Indian Tariff Act, 1894, to fix maximum rates of postage under the Indian Post Office Act, 1898, to fix rates of income-tax and super-tax, and further to amend the Indian Paper Currency Act, 1923, which was passed by the Legislative Assembly at its meeting held on the 28th March, 1933."

### THE INDIAN INCOME-TAX (AMENDMENT) BILL

#### AMENDMENT OF SECTION 4.

#### PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Sir George Schuster.

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): On a point of order, Sir.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Does the Honourable Member know what the Honourable the Finance Member is proposing? Let us hear what he has got to say.

**Mr. S. C. Mitra**: He is bringing in Government business and we can transact only non-official business on a non-official day.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): But the Honourable Member does not know what it is. Sir George Schuster.

**The Honourable Sir George Schuster** (Finance Member): Sir, I beg to present the Report of the Select Committee on the Bill further to amend the Indian Income-tax Act, 1922, for a certain purpose (amendment of section 4).

**Mr. S. C. Mitra**: Sir, this day being a non-official day, it is on principle, not that a little time or much time may be spent for this, that I object to any official business being transacted today. In the Manual of Business and Procedure, paragraph 22 deals with the official business as follows:

"On days allotted for the transaction of Government business, the Secretary shall arrange that business in such order as the Governor General in Council may direct."

But, as regards non-official business, which is dealt with in paragraph 21, it is said that on both official and non-official days, that particular class of business only *shall be transacted*. The word is "shall". It is peremptory, it is not even discretionary, and

"On other days no business other than Government business shall be transacted except with the consent of the Governor General in Council".

As regards official days, it is very strict, that is, that without the consent of the Governor General in Council no non-official business on these days can be done. I claim, and I hope, Sir, you will maintain the privileges of non-officials, that on non-official days,—no question about the time necessary—but, as a question of principle, you will not allow any official business to be transacted. I think, the section is very clear, because it is said "business for that class *shall* have precedence". In any case, before the non-official business is finished, there is no case for Government to bring in any Government business of any kind and, on these grounds, I appeal to you, Sir, on a point of order, that you will not permit the transaction of any official business.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions: Non-Muham-madan): Sir, I join with my Honourable friend, Mr. S. C. Mitra, in supporting his point of order, and I do so for the following reasons. You will observe that the presentation of the Report of a Select Committee is not such a formal business as at first blush it might be supposed. I draw your attention to page 31 of the Manual of Business and Procedure. Standing Order 42 says:

"The Report of the Select Committee on a Bill shall be presented to the Assembly by the member in charge of the Bill.

In presenting a report, the Member in charge shall, if he makes any remarks, confine himself to a brief statement of fact, but there shall be no debate at this stage."

Consequently, the presentation of the Report is not merely a formal thing. It may be accompanied by a speech, and, as a matter of fact, the speech may be of three words, three hundred words or three thousand

[Sir Hari Singh Gour.]

words. Then, if you turn to our Standing Order 41, paragraph 80 of the Manual, you will find the following statement:

"(1) After publication in the Gazette, of a Bill, as required by the Rules, the Select Committee, to which the Bill has been referred, shall make a report thereon."

Now, the important words to which I wish to draw your attention are:

"(2) Such report shall be made not sooner than three months from the date of the first publication of the Bill in the Gazette, unless the Assembly orders the report to be made sooner."

Now, on the date on which the report is presented to the House, it is open to any Member to object that it is not competent to present the report, because Standing Order 41 has not been complied with . . . .

**Diwan Bahadur A. Ramaswami Mudaliar** (Madras City: Non-Muham-madan Urban): On a point of order, Sir. We are not now on the merits whether the Honourable the Finance Member should present his report, that is a distinct question. The narrow issue that has been raised by my Honourable friend, Mr. S. C. Mitra, is whether at this stage and on this day, the Honourable the Finance Member can present the report after the non-official business is over? There is still time for the Honourable the Finance Member to present the report when it will be in order to raise that issue.

**Sir Hari Singh Gour:** I am supporting Mr. Mitra on different grounds. If only the Honourable gentleman will indulge me for a few minutes, he will see how the objection is justified on other grounds.

Now, what I was going to point out to you, Sir, in this: the presentation of a report is not merely a formal act, and the report is incompetent unless it complies with Standing Order 41(2). In order to give Honourable Members a chance of seeing whether the report is in order or not, this item of business must be entered in the List of Business for the day. It is not on the agenda. The rules say:

"A list of business for the day shall be prepared by the Secretary and a copy thereof shall be made available for the use of every Member.

Save as otherwise provided in the Rules and Standing Orders, no business, not included in the List of Business for the day, shall be transacted at any meeting without the leave of the President."

These are peremptory clauses. Here is the List of Business which was given to us and we have come here today to transact what is entered in it. If the Honourable Member wanted to present the Report of the Select Committee today, it should have been entered in the List of Business and it would have given us a chance to see whether there has been compliance with Standing Order 41(2) which we have no means of doing today. Objection can be raised to the presentation of the report on that ground, that previous notice was necessary, a notice which can only be given to the Honourable Members by entering it in the List of Business today. I, therefore, submit that no business, not entered in the List of Business today, can be transacted today.

Thirdly, there is another point to which I wish to draw attention. The Governor General in Council allots the days for the transaction of official and non-official business; and, on a date allotted for non-official business,

non-official business must be transacted in the first instance. That is a point which my friend, Mr. Mitra, has raised. In addition I am raising these other points which present insuperable objection to the presentation of this Report.

**The Honourable Sir George Schuster:** Sir, I do not wish to speak at all on the technical side of this question; but I do wish to point out to the House the fact that today has been set aside for non-official business as the result of an arrangement made by the courtesy of the Government for the convenience of Honourable Members; and if we had had any sort of indication that a point of order of this kind would have been raised, when requesting you, Sir, to make the arrangement, we would certainly have guarded ourselves against the possibility of this particular objection. I would point out to Honourable Members opposite that, having regard to the fact that the Government have gone out of their way to meet their convenience in order to enable a continuous debate for three days to be carried out on the White Paper, and suggested that the Order Paper for the week should, for this purpose, be altered. It does seem rather unreasonable that a technical point of this kind should be raised. I leave it to you, Sir, to attach what importance you desire to that consideration, and I do not wish to argue the technical point.

**Mr. Gaya Prasad Singh** (Mirzapur *cum* Champaran: Non-Muhammadan): You do not give us any facilities for non-official work: why should we not do the same?

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The main contention, as the Chair understands it, in the point of order raised by the two Honourable Members is that the presentation of the Report of a Select Committee on an official Bill, being in the nature of official business, cannot be done on a day set apart for non-official business; and the Honourable Members mainly rely on rule 6 in support of their contention. With regard to the objection raised by Sir Hari Singh Gour that this particular business does not find a place in the Order Paper, that does not present any insurmountable difficulty, because in that very Standing Order the Chair has got discretion to allow that class of business to be transacted even though it may not find a place in the Order Paper. In interpreting rule 3, the Honourable Member, Mr. S. C. Mitra, drew the attention of the Chair to the need for safeguarding the interests of non-official Members on non-official days. The Chair has already given the assurance that it will very jealously guard the rights and privileges of every section of the House; and, especially the non-official section of the House under the present constitution would require greater vigilance on the part of the Chair. In interpreting the Standing Orders, unless an injunction is expressed in explicit and mandatory terms, the Chair must so interpret the Standing Orders as to facilitate the progress of business and not to obstruct the course of business in this House. It is no doubt laid down that on a day set apart for non-official business, no business of any other class shall be transacted. If the Chair were ever to be asked permission for the transaction of a business which will encroach upon non-official business, the Chair would certainly not agree to such a procedure. But, as the Chair has observed, the Standing Orders have to be interpreted with a view to facilitating business and not obstructing business; and constructing rule 6 in that spirit, the Chair thinks that



[Mr. President.]

the rights and privileges of non-official Members are not encroached upon by a formal presentation of the Report of a Select Committee on an official Bill. In fact, the Chair would point out to non-official Members that if a strict interpretation of rule 6, in the light of what the Honourable Member, Mr. S. C. Mitra, has said, is to be observed by the Chair, it will probably be the non-official section that will suffer more than the official section, because, if the rule is to be interpreted in that strict and technical light, then the Select Committee Report on a non-official Bill cannot be presented on any other day except a day set apart for non-official business. That would mean, especially in the light of the fact that very few days are available for the disposal of non-official Bills, that it will involve a very serious hardship on non-official Members.

**Sir Hari Singh Gour:** We are not concerned with that.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Honourable Member may not be concerned himself, but the Chair is bound to take into consideration the convenience of both official and non-official sections of the House. Apart from this interpretation which the Chair thinks ought to be put upon rule 6, there is ample precedent for the presentation of Select Committee Reports on non-official days, and the Chair for these reasons does not think it necessary either to depart from the well-established practice or to impose the narrower construction on the interpretation of Rules and Standing Orders. The Honourable Member would, therefore, be entitled to present the Report.

**Sir Hari Singh Gour:** There remains another point which I raise, and it is this . . . .

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Is it on the same point?

**Sir Hari Singh Gour:** No; another point. The point I raise is this: before the Honourable Member is entitled to present his Report of the Select Committee, he must be competent to do so and the competency is determined by the fact that the Bill must have been published in the official Gazette not less than three months before the date of presentation of the Report; and, unless that condition is satisfied, the Report cannot be received at all.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Will the Honourable Member refer the Chair to the Standing Order that he is thinking of?

**Sir Hari Singh Gour:** Standing Order 41(2) says:

"Such report shall be made not sooner than three months from the date of the first publication of the Bill in the Gazette, unless the Assembly orders the report to be made sooner. . . ."

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Will the Honourable Member kindly read the next paragraph also?

**Sir Hari Singh Gour:** Yes, Sir:

"Provided that the time limit referred to in this sub-rule shall not apply in the case of Bills imposing taxation."

This is not a Bill imposing taxation. This is a Bill to amend the Income-tax Law, and being, therefore, a fiscal statute, no report can be made sooner than three months from the date of the first publication. As the item does not find a place in the List of Business, the President must exercise his discretion in favour of the Member who wishes to maintain that the presentation of the Report of the Select Committee is in order.

**The Honourable Sir George Schuster:** May I point out to the Honourable Member that the Report of the Select Committee which he himself has signed contains this paragraph:

"The Bill was published in the Gazette of India dated the 10th September, 1932."

**Sir Hari Singh Gour:** Sir, the Honourable Member is perhaps aware that this Select Committee sat till half past six the day before yesterday, and the Members of the Select Committee drew up their Report only this morning. The Members of the Select Committee asked the Honourable Sir George Schuster to give them time, so that they may be able to write a considered minute of dissent, but, as time was not given, they had to hurry on, and the Finance Member knows only too well how little time they had to read the Report and to draw up their minute of dissent.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Does the Honourable Member want a ruling from the Chair that the period of three months has elapsed from September, 1932, to April, 1933?

**Sir Hari Singh Gour:** No, Sir. I do not want any ruling of that kind. What I do want is that the Standing Order must be enforced which lays down that no business . . . . .

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. The Honourable Member is a very old Member of this House, and he knows perfectly well that it is extremely wrong on the part of any Honourable Member to question a ruling that has already been given.

**Sir Hari Singh Gour:** I never intended that the Chair had waived that Standing Order. I understood the Chair merely to interpret the rule that the Standing Order must be interpreted as a subject of real convenience. I never meant that the Chair had waived, in the exercise of its discretion, the requirement of that Standing Order . . . . .

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Chair has already given a ruling on this point, and, if there are no objections on the point, I would ask the Honourable the Finance Member to present the Report.

The Honourable Member must now present the Report.

[The Report of the Select Committee on the Bill further to amend the Indian Income-tax Act, 1922, for a certain purpose (Amendment of section 4) was then presented.]

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Before the House proceeds to the business, the Chair wishes to take this opportunity of correcting an observation that it made on the 24th March, 1933. In answer to a question by Diwan Bahadur A. Ramaswami

[Mr. President.]

Mudaliar that, in the case of Bills, it may be that the Member who introduces the Bill may not proceed with it, the Chair said that if an Honourable Member, who introduced a motion, was not able to proceed with the subsequent stages, he had got the remedy in his own hands, to authorise some other Member to move the Resolution. On examining the rules and Standing Orders, the Chair now finds that under Rule 20A in the case of Bills no other Member except the Member in charge of the Bill can make further motions, and, in the light of that peremptory rule 20A, the observation that the Chair made on the 24th March, 1938, is not accurate and the Chair, therefore, wishes to correct it.

**Mr. S. C. Mitra:** May I take it, Sir, that, under the revised ruling we are entitled to introduce the other Bills which were ruled, at the time, as barred?

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): It does not alter the ruling of the Chair on that point.

#### RESOLUTION *RE* RELEASE OF MR. GANDHI, MUFTI KIFAET-ULLAH AND OTHER POLITICAL PRISONERS.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The House will now resume consideration of the following Resolution moved by Mr. Maswood Ahmad on the 15th February, 1938:

"That this Assembly recommends to the Governor General in Council to release Mr. Gandhi, Mufti Kefaetullah and other political prisoners."

**Mr. Abdul Matin Chaudhury** (Assam: Muhammadan): Sir, I rise to support this Resolution. I support it, not because I am an admirer of the methods which Mahatma Gandhi pursues in the attainment of his political objectives. I do not support the release of Mufti Kefaetullah; because I very much welcome the intrusion of the Mufti Saheb and his school of theologians into the field of Muslim politics. I support the Resolution on entirely different grounds. I consider, Sir, that it is necessary that, for the success of the constitutional reforms, the hand of repression must now be stayed and that the hand of conciliation extended to those whose co-operation is essential for restoring peaceful conditions in the country. What are the facts of the political situation today? The most patent and glaring fact is that the civil disobedience movement has failed, and that its active manifestations have been restrained.

Now, Sir, I want to draw the attention of the House to one great historical fact. All the world over in the world's history the inevitable reaction of the failure of direct action in political struggle has been the growth of a tendency to resort to parliamentary methods, and that tendency is discernible in Congress politics today. Now, the question is, are the Government going to encourage and promote the growth of that tendency or is it going to hamper or retard it? That, I understand, is the true implication of the Resolution before us today.

I know that the obvious retort from Government will be that Lord Irwin tried the policy of conciliation and that it did not lead to desired results. I shall not suppress facts. I shall put them as straightforwardly as possible without bias or prejudice. I frankly admit that, after the

Gandhi-Irwin Pact, a section of the Congressmen acclaimed it as a great Congress victory. They were disdainful of the Government. They were also contemptuous of the Muslims who kept away from the civil disobedience movement, but that does not mean that Lord Irwin's policy had failed. That is only one side of the picture. I maintain that Lord Irwin's policy succeeded in the attainment of his objects. The civil disobedience was called off and the co-operation of the Congress was secured for the constitutional progress of the country. Lord Irwin returned to England, on the crest of a wave of popular enthusiasm and popular goodwill. I maintain that the presence of Congress delegates at the St. James Palace and the diversion of Congress politics into constitutional channels is the greatest vindication of the policy of Lord Irwin.

Let us for a moment turn our attention from the St. James Palace to India. While constructive statesmanship was busy in London, militancy was in the ascendancy in India. A section of the Congressmen and a section of the Bureaucracy were spilling for a fight—the Congressmen, because they were encouraged by the success of the first civil disobedience movement, and the bureaucracy, because they were chafing under restraint imposed by Lord Irwin's policy and were anxious to teach the Congressmen a salutary lesson of respect for law and order. At this juncture, Mahatma Gandhi returned to India. He returned with all pacific intentions, but he found himself in a difficult position with the militant Congressmen on the one side and the militant Government on the other. In his perplexity, he sought an interview with the Viceroy. That interview did not take place, and, whether it should have taken place or not is a question which I am not going to discuss. I can leave it to the verdict of history. I am not at all sure that the verdict of history will be in favour of the Government of India. At that moment, the Congress was dominated by young men in a hurry and the Government also were on the war path. So a clash was inevitable, and in that clash the Government were at an advantage. While in the intervening period the Congressmen only bragged and blustered, the Government were perfecting their organisation for dealing with the civil disobedience movement. Honourable Members might remember that, when Germany violated the neutrality of Belgium, the German Chancellor defended it on the exigencies of the war. The German Chancellor, Von Bethman Hollwegg, declared: "Rapidity of action is the greatest German asset". The Government of India acted on a similar principle. Before the Congressmen knew where they were, the Government pounced upon the leading Congressmen and clapped them in jail. They forged Ordinances which swept thousands of Congressmen inside the prison. It is the release of these Congressmen, who went into the jail under a compelling sense of duty and discipline and without much apparent enthusiasm, that this Resolution wants to bring about.

Today the tussle between the Government and the Congress—the active tussle is practically over, and the Government have emerged victorious in this fight. Now, they are dictating terms, and the terms that the Government are dictating are an absolute surrender by the Congress and a guarantee of good conduct for the future. These are terms which no honourable gentleman can ever accept. If a recantation of faith is made a condition precedent of the Congress co-operation, then, I am afraid, the Government will have to wait till Doomsday for that recantation. They do not seem to know the type of men they are dealing with. About

[Mr. Abdul Matin Chaudhury.]

50,000 Congressmen were in jail. Can you point out one prominent Congress leader who has abjured his faith to secure his release? No one has done and no one is going to do it. (An Honourable Member: "Jamnadas.") Now, what is the alternative? How to harness the Congress to the constitutional chariot? (An Honourable Member: "Louder please.") His Excellency the Viceroy, in his inaugural address in this House, was almost prophetic when he said that the Congressmen would be caught in the "living forces of constructive politics". I am perfectly sure that the Congressmen will be caught in the "living forces of constructive politics", provided only they are given a chance, provided that they are not intentionally debarred. Now, here is the Joint Parliamentary Committee looming large in the field of constructive politics. Will they give Mahatma Gandhi the chance to do his bit of constructive work in the Joint Parliamentary Committee? If they are to do it, obviously they will have to release him, and that is our main contention today.

Let us not rake up the old controversy about the war guilt of the Congress and the bureaucracy. Let us take facts as they are, and the facts are, as I have said, that the war fever has subsided in the Congress camp, but most unfortunately the war mentality still persists in the Government of India. Just as the success of the first civil disobedience movement had turned the head of the Congressmen, so the temporary success of the repressive measures has also unbalanced the mind and judgment of the Government. (Hear, hear.) The Government today are arrogant and irresponsible to public opinion. My Honourable friend, Mr. Anklesaria, some days back interjected in this House: "The country is sick of Mahatma Gandhi." The Honourable the Home Member corrected him by saying: "a section of the country is sick of Mahatma Gandhi". That was only a half-truth. The whole truth is, just as a section of the country is sick of Mahatma Gandhi and civil disobedience movement, another section, a very large section, is equally sick of Sir Harry Haig and his Ordinances. There is a Bengali proverb:

*"Rajai Rajai judha hoi,  
Ulu kharer pran jai."*

Which means that when the Kings fight, the shrubs and bushes are trampled upon. Here is a trial of strength going on between the mighty Mahatma on the one side and the almighty Sir Harry Haig on the other, and, in this struggle, we, the common citizens, are deprived of our cherished rights and liberties. It is time that the Government reconsidered their policy in the light of the present circumstances.

Before I finish my speech, I want to give a little bit of an advice to Sir Harry Haig. Sir Harry Haig has proved himself a very able administrator. He has checked the growth of the civil disobedience movement. He has also proved himself a successful parliamentarian. Barring occasional lapses, his method and manner of dealing with the Assembly has won universal praise. But he has yet to succeed as a statesman. And to succeed as a statesman he must look not only to the immediate present, but must have a vision of the distant future also. If he believes that he can serve the interests of India and of England best by keeping Mahatma Gandhi in oblivion for ever, he will be committing a Himalayan blunder.

If, Sir, he is not to leave to his successor a legacy of India prey to communalism and terrorism, he must make every effort to secure the co-operation of the Mahatma for the working of the next reforms, because, Sir, a policy of repression, it is a truism, succeeds only for a time and does not pay in the long run. (Loud Applause.)

**Raja Bahadur G. Krishnamachariar** (Tanjore *cum* Trichinopoly: Non-Muhammadian Rural): Sir, so far as the release of Mr. Gandhi is concerned, I have nothing to say, if Government, which confined him, consider it proper to release him. We have not got any say in the matter. We did not ask for his confinement nor does he ask for his release. It is, therefore, for the Government which, judging from the political situation in the country, said that it was better to put him in jail, to say now that, on a due consideration of all the circumstances pertaining to the position, they consider that he should be released. I think it is a matter between them and Mr. Gandhi and no amount of argument on our side can evidently influence the Government either way; that at any rate is the view that I take of the request contained in the Resolution. But when that Resolution is supported by arguments which, in my humble opinion, cannot stand the test either of reason or of authority, one has got to enter a protest. I understand, that the release is asked for, because Mr. Gandhi is the only man who could deliver the goods regarding the future Constitution and that so long as he is locked up inside the jail, the scheme which the Government might put forward has very little chance of success. I am glad that my friend, Mr. Abdul Matin, did not enter into the question as to whether the imprisonment was justified or not, and I think that was a very wise position to take. So far as the country's support is concerned, let us take Madras. I do not know if my Honourable friend's attention or the attention of this House has been drawn to the fact that men who had been in prison on account of their following the civil disobedience movement have, after coming out of the prison, assembled in meeting in Madras and other places and resolved that this sort of going to jail in pursuance of a chimerical movement was futile, that valuable time was lost and that the opportunities which were being offered to them were all thrown away upon this barren field of civil disobedience and going into jail for that. A most flagrant instance of it is a letter written by Mr. Jamnadas Dwarkadas who was a very staunch admirer and follower of Mr. Gandhi. There is no greater proof of his staunchness than the fact that he chose to go into jail and Mr. Jamnadas Dwarkadas is a very respectable man. After having remained in jail for some time, he apologised to the Government and, what is worse, he has written a long letter to Mr. Gandhi which has been published in the *Times of India*, and I want my friends to read that letter carefully. Mr. Jamnadas Dwarkadas is not a man who is bidding for notoriety. He does not want any favour from anybody, and what does he say? Mr. Gandhi is surrounded by self-seekers, by men who want to feather their own nest and by men who have absolutely no compunction to have recourse to unscrupulous activities if only it would do them any benefit. Mr. Gandhi himself, he says, is absolutely unobjectionable in character and unaware of the actual fact, but he cannot get over the influence of these people and that, therefore, to have anything to do with the movement started by him would be dangerous and that is the reason in short upon which he justified his action in coming out of jail after apologising to the Government. Now, Sir, if you go further north to Mr. Gandhi's own province of Gujerat, you

[Raja Bahadur G. Krishnamachariar,] find, at least that is the information that I have got, that his influence has been completely waning on that side also and then according to Mr. Jamnadas there is this latest stunt of his, about untouchability and the temple entry. In South Africa, he did espouse the cause of untouchables, but this temple entry and anti-untouchability campaign are his last attempts to regain that popularity which unfortunately is going out of his hands. (Laughter.) He laughs best who laughs last. This is his last attempt to gather power into his hands, that is what Mr. Jamnadas says. To those of my friends here who laugh, I throw down a challenge that I gave to Mr. Gandhi himself when he was in Delhi. If really he has got this influence over the country, let him go out of the Congress. He did not build up the Congress. He was not here when the Congress was started. It is men like myself who worked for the Congress in our humble way and following the lead of those great men until it was got hold of by men who follow Mr. Gandhi. Let him start a fresh organisation. Let that organisation come into existence with all the influence, and all the greatness that is now claimed for the Congress as led by Mr. Gandhi and then, Sir, though I do not generally wear a hat, but I shall take my hat off for him, as they say. I will not bow to him, because he is not a Brahmin, but I am quite prepared to make any obeisance to him as allowed by the law and then I shall respect him. Then, I shall not say that he has usurped the position that has been slowly and carefully and in spite of opprobrium built up by stalwarts like Dadabhai Naoroji, Sir Phirozeshah Mehta, W. C. Bannerjee and Mr. Chandavarkar and other people, but to say that that is your institution and to say that it gives you power is not consistent with that scrupulous regard for truth on which Mr. Gandhi prides himself and which, so far as he is concerned, I have absolutely no doubt he is trying to follow to the best of his ability. I, therefore, submit that if the release is to be made upon these grounds, the Government of India will be seriously mistaken if they believe them, but if they want to release him for any reason, I have no objection.

**Mr. Muhammad Yamin Khan** (Agra Division: Muhammadan Rural): Sir, when I look at the Resolution, I do not know what the Honourable Member means by "other political prisoners". I do not know with what motive the two names have been mentioned, and other names have been avoided.

**Mr. M. Maswood Ahmad** (Patna and Chota Nagpur *cum* Orissa: Muhammadan): I explained that. You were not in your seat then.

**Mr. Muhammad Yamin Khan**: I was in my seat and I was listening to the Honourable Member all the time. I know that the Honourable Member wanted to exploit by including the name of Mufti Kifaetullah. I know the reason why the previous Resolution, which stood on the Order Paper of the day before this Resolution, had been withdrawn in order to give preference to this Resolution. My Honourable friend seems to think that nobody can understand these tactics in this House.

**Mr. C. S. Ranga Iyer** (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): The Honourable gentleman referred to a previous Resolution and why it was withdrawn. The previous Resolution stood in my

name and as it was represented to me by the bulk of non-official Members that Mr. Maswood Ahmad's Resolution was more comprehensive, I withdrew it and not for the reasons or the insinuations contained in the Honourable Member's statement.

**Mr. Muhammad Yamin Khan:** I did not impute any motive to my Honourable friend, Mr. Ranga Iyer. I knew a request was made to him by the Secretary of the Independent Party to withdraw his Resolution in preference to Mr. Maswood Ahmad's Resolution.

**Mr. D. K. Lahiri Chaudhury (Bengal: Landholders):** There was no particular intention in Mr. Ranga Iyer withdrawing his Resolution.

**Mr. C. S. Ranga Iyer:** In view of Mr. Yamin Khan's statement, I beg to withdraw the word "insinuation" from my previous remarks.

**Mr. Muhammad Yamin Khan:** Thank you. Now, Sir, it is characteristic of my Honourable friend, Mr. Maswood Ahmad, to bring in some kind of thing on which he wants to exploit.

**Mr. M. Maswood Ahmad:** I seriously object to this remark of my Honourable friend that I am trying to exploit the Members by bringing in this Resolution. Is this parliamentary language?

**Mr. President (The Honourable Mr. R. K. Shanmukham Chetty):** The Chair understands that the Honourable Member wants to know whether it is parliamentary to say that one member is exploiting a situation. Is that the point on which he wants a ruling?

**Mr. M. Maswood Ahmad:** I want your ruling, Sir, on the admissibility of the words which were used by the Honourable Member,—whether those words are parliamentary.

**Mr. President (The Honourable Mr. R. K. Shanmukham Chetty):** The Honourable Member wants a ruling as to whether it is parliamentary to say that a Member of the House exploits a certain situation. There is nothing unparliamentary in that.

**Mr. Muhammad Yamin Khan:** Sir, I do not think that Mufti Kifaetullah's case stands along with that of other political prisoners; I think his case stands absolutely apart from the other cases mentioned in this Resolution. We have to see whether Mufti Kifaetullah was actuated by any political considerations. His imprisonment has no reference in any way to any political activities, but his case stands aloof and apart from the case of the others. I think my Honourable friend, Mr. Maswood Ahmad, if he had been sincere and such an admirer of Mr. Gandhi, should have at least shown some respect when he used his name. Generally he is called in the country "Mahatma Gandhi", but Mr. Maswood Ahmad has used the words "Mr. Gandhi". That may be correct or may not be correct, but people who respect Mr. Gandhi generally call him "Mahatma Gandhi".



**Mr. Muhammad Yakub** (Rohilkund and Kumaon Divisions; Muhammadan Rural): A Musselman should not use the word "Mahatma". That is un-Islamic.

**Mr. Muhammad Yamin Khan:** My friend, Mr. Maswood Ahmad, does not seem to be serious when he advocates the cause on behalf of Mahatma Gandhi, but he has, as a matter of fact, a motive which he does not disclose. It may, I think, be that the Honourable Member, desiring to gain some kind of popularity, thought that this Resolution should be brought forward, but . . .

**Mr. Uppi Sahab Bahadur** (West Coast and Nilgiris; Muhammadan): We want your protection, Sir. The Honourable Member is questioning the motive of another Honourable Member, and we want your protection and we want to ask if our actions in this House are to be questioned by making the allegation that we want to exploit some situation outside, and that we want to gain popularity. We want your protection against the imputing of motives.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Motives may be either worthy motives or unworthy motives. If an Honourable Member imputes an unworthy motive, the Chair will intervene, but I have not heard the Honourable Member make any such remark.

**Mr. Uppi Sahab Bahadur:** The Honourable Member said that another Honourable Member was not sincere in moving this Resolution. Thus the motive imputed is a bad motive,—that is, to gain some cheap popularity.

**Mr. Gaya Prasad Singh** (Muzaffarpur *cum* Champaran; Non-Muhammadan): You can also say that he wants to gain popularity among the Government Benches.

**Mr. Muhammad Yamin Khan:** My friend is justified in holding his own views, and I am justified in holding my own views. My opinion is that this Resolution is not warranted by the exigencies of the time. We know what was the condition of the country when Mahatma Gandhi was imprisoned. I think, Sir, that although my friend, Mr. Abdul Matin Chaudhury, might say that the Honourable Sir Harry Haig is wanting in statesmanship, I think no better statesmanship could ever be shown than by restoring the country to quiet and peace by imprisoning Mahatma Gandhi. (Hear, hear.) Sir, a statesman is required to protect the rights of the people whose rights cannot be protected otherwise. What was the state of the country? We had forced hartals; people were forced to observe hartals every day, and there was a boycott of certain goods, and people were being forced to act, not according to their own conscience, but because a certain class of people thought that they must do it. So there was virtual terrorism in other respects on the part of certain classes of people in the country, and it became quite intolerable to the poor citizens who did not observe those hartals. And what did those hartals lead to? We find they were the direct result of bitter communal fights all over the country. Most of the cities had to suffer on account of those hartals, and they resulted in acute and bitter communal riots leading to much loss of life and property. And it was this communal bitterness which was thus engendered in the country that was the direct

result and legacy of the civil disobedience movement. (Voices: "Question, question.") A certain arbitrary policy was being advocated and promoted by Mahatma Gandhi in the country and, as long as that policy was being advocated by him, dividing as it did one community from another, leading as it did to friction between the two communities, Mahatma Gandhi, however popular he might be, was, I think, doing the greatest disservice to the country. What we expected of a Mahatma was to bring about peace and quietness and restoring calm in the country, teaching people not to be inflicting loss and hardship on the poor citizens, but, instead of this, what was the course of action he was advocating? He was advocating that the people should be forced to follow his policy and pursue whatever course of action he dictated to them. If the Government are blamed by some of my over-zealous friends that they were resorting to force and lathis on the one hand, I say that a worse force was being used by the so-called followers of Mahatma Gandhi by calling on the people not to pursue their own daily avocations; and I think no better, no finer statesmanship could ever be shown than by imprisoning a man who disturbed peace and equilibrium in the country. I say, this is not the proper time when Mahatma Gandhi should be let out, because this is the time when we find that on the slightest excuse the people are willing to come to blows; and if Mahatma Gandhi is freed today, when the Constitution is in the melting pot, then we will find, Sir, that communal riots will spring up, so that for all these reasons I think this is a most inadvisable Resolution. I think that the case of Mahatma Gandhi also stands separate from the other political prisoners. Now, there are political prisoners who call themselves his followers, but in the true spirit they are not so; they have exceeded their functions far more than what Mahatma Gandhi preached; they have even violated the tenets of Mahatma Gandhi. While Mahatma Gandhi preached non-violence, that is in the use of physical force, nevertheless a word can prove to be very violent; a word can be used so as to produce commotion and disturb peace, such a word can prove far more violent than the use of physical force, and the people, who have shown violence by forcing people to observe hartals and such like, by making people, who were living from hand to mouth to let their wives and children go without any food for days and days, then, I say such so-called non-violence is no good, but is positively mischievous and injurious. I say, the people who came forward as advocates of non-violence have proved to be the most violent people; they have shown no respect to law and order; and people who do not observe law and order must suffer all the consequences of the law, because no progress in any country can ever be achieved unless people begin to learn and respect the laws that are made for the country. They may have their grievances against certain laws; they may say that they are going to change such laws, but as long as those laws remain, they must follow those laws, and anybody who breaks the law, and teaches others to break the law, must suffer all the consequences of that. Sir, this Resolution, I think, must be opposed, and it should not find any favour with the House, however charming and innocent it may appear to some people.

**Mr. N. R. Gunjal** (Bombay Central Division: Non-Muhammadan Rural): (The Honourable Member, speaking in the vernacular, supported the Resolution.)

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) in the Chair.

**Mr. Uppi Saheb Bahadur :** Sir, I am very sorry that my Honourable friend, Mr. Yamin Khan, is not in his seat at present. He was telling the House that our actions in regard to this Resolution are actuated by motives and he even went to the length of suspecting the sincerity of some of us, but I do not wish to question his motives. It is as glaring as day light. It is known to everybody. We are here to carry to the Government the voice of the public, the general majority of the public. The Government have recognised that we are elected Members of this House, elected by a majority of the public in India, and, as long as we are here, it has to be admitted that we have the confidence of the public and our opinion is the opinion of the majority of the Indian public. (Hear, hear.) Sir, Mr. Yamin Khan and others who oppose this motion from the non-official side know that Mahatma Gandhi is now in jail and that they should know that Mahatma Gandhi does not want to come out of jail through our intercession. Mahatma Gandhi is in jail on account of his own convictions. If at any moment he sends a telegram to the Honourable the Home Member that he is prepared to come out, the Honourable the Home Member will be only too glad to free him. He is in jail, because he knows he will not be better off even outside the jail. When he is outside the jail, he feels he is in a bigger jail. That is why he once said "I think India is a bigger jail", and that he was in a smaller jail. Sir, I was wondering that a Mussalman of Mr. Yamin Khan's erudition should have said that Mahatma Gandhi was responsible for the disturbance of the tranquillity and for all the trouble in the country. This is an old and stale cry. As a Mussalman, he must know that 1,400 years ago, this was the very charge that was levelled against the Prophet of Arabia by his opponents. Now, this was the charge that we find in the great Labour Movement in England that the capitalists put forward against the labourers. This is the charge against all people who fight for some ideals all over the world. Some years ago, when the famous Kamal Pusha was fighting for the life and death of his own country, the British people were crying hoarse that he was disturbing the peace of the country, peace and tranquillity of the world. Sir, even now in the modern history let us take the peace of the country. The Fascist, the Great Mussoloni has disturbed the peace of Italy, the great idealist Hitler has disturbed the peace of Germany. Are we, Indians, small men as compared with them? Gandhiji is fighting for an idea, the freedom. Is not freedom worth the trouble? It is not fair on the part of Mr. Yamin Khan and others who oppose this Resolution to be so ungrateful to men for whose strife and on account of whose suffering he and I are today here. Sir, this Assembly came into being on account of the sufferings of great men like Tilak, Dr. Besant and such other great men and women. This was not a free gift from Britain. This Assembly, which some of us may seem to think as the stepping stone for future greatness and for Knighthood, is in reality the result of suffering of great men. Even Mahatma Gandhi does not aspire to be a Member of this Assembly. All that he aspires is to see his countrymen free. It was only yesterday we were discussing about the White Paper. I ask that Honourable

gentleman "Who brought about this White Paper"—certainly it was the result of the sufferings of these great men and their followers. Sir, let me make my position clear to the Government. You know, that I was in the Swaraj Party in the Madras Legislative Council, but I could not in 1930 agree with the Congress Resolution and even in those days I wrote against it in the public press,—the civil disobedience movement. I had severed connection from the Congress on account of that. I do not see eye to eye with the civil disobedience movement, but, I do admire the courage and self-sacrificing spirit of those brethren. I do not wish the Government to be vindictive. My purpose here is to convey to the Government the wishes of the constituency which I have the honour to represent in this House, the majority of whom do not want to see these great men, these self-less men to be incarcerated for life like this. Mr. President, these great men are in jail not for any of their own aspirations, but only for general good of the country. Perhaps Mr. Yamin Khan is afraid of releasing those people, and if these people are released and are taken out and come to this Assembly, I am afraid that he would not be here after the next elections. He was afraid of all that. Sir, under the circumstances, I had much to say to my Honourable friend, Mr. Yamin Khan, but I am sorry he is absent. So it will not be fair on my part in his absence to say anything. I support this motion and, at the same time, I have to bring to the notice of this House that this Resolution is simply to express the non-official view on the matter to the Government, through this House. That is all. It is not mandatory. It is not because Mahatma Gandhi and his followers and Mufti Kifaetullah and others who wanted us to move it. We as non-official Members have a duty to perform and to give our opinion to the Government as to what the majority of the public of India thinks and what the wishes of the majority of the public in India whom we represent are and that is all what we want to convey to the Government. If they do not accept it, the fault and responsibility lies with them.

**Major Nawab Ahmad Nawaz Khan** (Nominated Non-Official): Sir, I rise to oppose this Resolution; and, before proceeding with my arguments, I shall ask my two Honourable friends who have spoken and supported the Resolution, Mr. Uppi Saheb and Mr. Maswood Ahmad, what is the order of our God in our Holy Book, the Quran Sharif, which you all respect and I too: "*Alfitnato akbaro min alqatl*" and I wish that they should translate it.

**Mr. M. Maswood Ahmad**: The reply is, since he wants an authority on this question.....

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Chair cannot allow this sort of dialectics on the floor of the House.

**Major Nawab Ahmad Nawaz Khan**: The meaning is that causing anarchy or disturbance is worse than committing a murder.

**Mr. M. Maswood Ahmad**: That is not in the Koran, Sir. My Honourable friend must quote any *sura* or *ruku*. What he says is not in the Koran.

**Major Nawab Ahmad Nawaz Khan**: I will show you after finishing this speech. I will bring the holy book and I will lay before you and every man can see and read for himself. What more authority can I

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give? If you merely want to interrupt, that is another matter. So, according to Islamic law, anarchy or disturbance is supposed to be worse than the commission of a murder. Therefore, these political prisoners who have been arrested are only arrested on account of creating troubles and this civil disobedience and other subversive movements and activities and supporting such actions which are unlawful and which destroy the public peace and tranquillity. . . . .

**Mr. Gaya Prasad Singh:** And for going to Calcutta!

**Major Nawab Ahmad Nawaz Khan:** Therefore, those, who are anxious for the release of these prisoners who are in jail now, should make it their duty first to inquire whether they are still holding the same opinion and advocating the civil disobedience movement and, if they will do the same thing after they are let out, or whether they have changed their opinion. If they have changed their opinion, they must express it, and I believe no section of the public or any Government of any Province will have any hesitation to allow them to be out of jail. But if they hold the same opinions and if they have the idea that when they come out of jail they will directly or indirectly start the same propaganda and resume their efforts of civil disobedience in a cleverer way or in any other way, then it is useless to ask that they should be released for doing the same acts for which the Government were compelled to send them to jail. This is an open secret and everybody knows that it is not a pleasure to the Government to send anybody to jail: only if a man does an unlawful act or disturbs the public tranquillity, they have to do so. If Honourable Members merely want to court popularity in the papers or outside, that is something else; but if they really wish to do good either to society or to this House, then, instead of repeating the very same question and hearing the same reply from the Government or other officials, it is much better that they should first inquire from those now in jail whether they have changed their opinions or not. If they have changed their opinions, let them come here with that authority and say that they must be released because they have changed their opinions. But if they have not, it is no use putting these questions and hearing the same replies. If they have changed their opinions, they are most welcome to come out and do everything they like for the good of the country and for the good of their community. The Honourable Mr. Uppi Sahab said that some of those at present in jail did very good service to the community for which this Assembly should give them credit. I admire and admit the good actions of those people, but it does not follow that a man who has done good in the past, if he commits a murder or anything like that he should not be punished, merely because in the past he has done good things. If the man, who built this Assembly Hall for us and with whom we are very pleased and thankful, commits a murder or some such thing, he cannot be exempted from punishment merely on that account. I, therefore, say that if these persons have changed their opinions, they must be out of jail, but, if they have the same opinions; I think it will be very unwise that they should be let out of jail. I, therefore, oppose this Resolution.

**Mr. D. K. Lahiri Chaudhury:** Sir, when I just came to the House, I remembered it was the first of April and I thought to myself whether I would be fool enough to support this Resolution or to oppose it. I was in a dilemma; but after the debate we had yesterday and after the fate that has been disclosed of India by that very frank document, the White

Paper, which is not only destructive of England but also of Indian nationalism, I do not see any reason whatever why I should support this motion at this stage, because I am fully aware of the fact that thousands of people have been arrested in a very anomalous situation—anomalous for the simple reason that, on the one hand, you declare the Congress to be a lawful body and, on the other hand, you arrest those people who are going to attend the Congress Session, including men like Pandit Malaviyaji and Mr. Aney who is the acting President of the Congress. They have been prevented from expressing their opinions on this White Paper and that proves the truth of the saying of the morning showing the day. For my part it is really a pitiable thing on an occasion like this that I have to oppose this Resolution, but I take it that I will not be misunderstood on the floor of this House if I simply oppose this Resolution. I stand shoulder to shoulder with the observations that have been made by the Deputy President of this House and my other friends. If it is the intention of Government to gag the press outside by statute and to arrest people even without knowing what they are going to do and to just muzzle their mouths, not only by Ordinances, but also by arresting them without cause and putting them behind the bars, it is no use pressing for the release of Mahatma Gandhi at this stage. Let Mahatmajai remain in jail; but I assure this House that amidst the clanking of chains and behind fetters and bars, nationalism will spring up by itself; and none can in this world, no power on earth, however strong and powerful it may be, can retard the progress of democracy. The Government can keep the physical body of Mahatma Gandhi in prison, but they cannot touch his spirit. The spirit which he has kindled in this country of non-violence, the spirit which has been imbibed by almost every patriotic Indian is such that it cannot be eradicated by any amount of Ordinances and Regulations. Let there be thousands of laws on the Statute-book, let there be thousands of legislations, let there be even a complete ban on the liberty of the press, but still you will find that the fire which Mahatma Gandhi has kindled in the hearts of Indians can never be extinguished. I do not know how far His Excellency the Governor of Bengal is justified in exercising his special powers in arresting so many patriots now proceeding to Calcutta, but I say again let there be thousands of Statutes, and none will be able to obstruct the onward march of progress in this country. This country has proved beyond all doubt its fitness to attain the status which is enjoyed by the commonwealth of nations. If merely the White Paper says that the country is not yet fit, a White Paper which has been condemned by even the moderates of moderates, I do not know for how long the British rule is going to remain in this country. Do the Government want a revolution? Do they invite chaos, or they want peaceful and systematic administration under the British flag? If they are anxious to run the administration under the British flag, then they must remain in this country and display reasonableness, and govern the country with justice and equity, and not with barbarism, if I may say so, not with terrorism. Sir, who are the terrorists? The flowers of India who come out of our Universities with noble and high ambitions are thrown in jails. Why is it so? It is because of the policy that has been adopted by the present system of Government. The Congress also has adopted the same policy, but on different lines. Today you are trying to muzzle the spirit; you can muzzle the physical body of man, but you cannot muzzle the spirit within him, and I can say with complete confidence that whatever amount of

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torture you may resort to, whatever amount of inhuman and brutal treatment you may give to our countrymen, nationalism cannot be killed. Yesterday I could not get an opportunity to speak on the White Paper although I am glad that my friend, Mr. Neogy, got his chance. What is the White Paper that we have got from Whitehall? I name it a "Frankenstine". Because it is the devil that has been created by Whitehall to destroy Indian nationalism.

Sir, many things are said about the White Paper, the question of Federation has been introduced into it. But where is the Federation? Where is the remotest chance of this Federation coming into operation? It is a complete mockery, I should say, because the English people can use the English language in any way they like, but with all of their skill and efficiency they cannot hoodwink the Indian public who are more than a match to our rulers. There are certain conditions which show that the Federation that is contemplated in the White Paper is remote and that it will not materialise in the near future. But, Sir, our onward march cannot be stopped by that. Only those who are privileged to talk, as the gramophone of Government, within the precincts of this Chamber may accept this Constitution, but, Sir, no self-respecting people, whether inside or outside this House, with a grain of common sense in him, can accept the proposals embodied in the White Paper. Even the people, who are behind the bars, if they are given an opportunity to express their views on the White Paper, would not even care to look at it. Of course, free expression of opinion is stopped by adopting special measures, because Government are really afraid of hearing the true opinion of the people on the White Paper. Sir, any such Constitution which will be given by the White Paper will not be acceptable to this House or to those who are outside this House. In these circumstances, it is absolutely foolish to demand the release of Mahatma Gandhi. Let him remain in jail. I know it for a fact that the place which was at one time the sojourn of the criminals and culprits has now become the temple of patriotism, a place of honour. It has become the Forum of nationalism. Every man, woman and child who has dared to cherish the spirit of nationalism has been put behind the prison bars. Nowhere in the world can it be found, that when responsibility is being transferred from one shoulder to another shoulder, the flower of the country, the best brains in the country are kept behind the bars, with the result that they are not able to express their thoughts. Sir, I was following the short notice question asked the other day by Mr. Jog, and the answer that we received from the Home Member was so disappointing that I think the less said about it the better, as, in the case of Nero, the less said about Nero the better, and, Sir, I may tell the Government that if they pursue this policy of repression, it will not strengthen the hands of the Tories who can shout many things in England, but it will strengthen the hands of those people who are suffering silently behind the prison bars and the hands of those people in this country who are outside the jails, but who sincerely feel for their brethren who have been put into prison most unjustly and most unlawfully. My friend, Mr. Yamin Khan, the leader of the Central Party, or some other party, I do not know what it is . . . .

**Some Honourable Members:** Leader of the United India Party.

**Mr. D. K. Lahiri Chaudhury:** Yes, he is the leader of the United India Party, and he is trying to unite India by lending his support to measures calculated to suppress Indian nationalism.

**Mr. Muhammad Yamin Khan:** Yes.

**Mr. D. K. Lahiri Chaudhury:** He has ventured to open his lips because of the sure help of the Treasury Benches. He was telling of exploitation about my friend, Mr. Maswood Ahmad, but I should tell my friend, Mr. Yamin Khan, that he has not only exploited the House but also exploited himself by joining hands with the irresponsible executive; I assure him. This will not take him to any higher position than the one which he holds under sufferance as it were. He has been very rightly treated very recently . . . .

**Mr. N. N. Anklesaria** (Bombay Northern Division: Non-Muhammadan Rural): On a point of order, Sir. How is this relevant, as to how Mr. Yamin Khan has been treated by this House?

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty) Order, order.

**Mr. D. K. Lahiri Chaudhury:** I am telling the plain truth which no Member can challenge. I throw out an open challenge in this House to contradict me. We set up a candidate against my friend who was supported by the Government, and we secured an overwhelming majority with the result that we defeated our friend. Let it be recorded in this House, because it is a thing worth recording, and in this way if pigmies of my friend's type are set up as candidates for responsible positions, they will be pooh-poohed by the overwhelming majority of this House. Sir, I assure my friend that he has not the ghost of a chance to get himself elected to this House in the next election. It would have been better for Government to dissolve this House at this stage and seek fresh elections on the issue of the White Paper, because they could then see what amount of confidence the White Paper enjoys among the people of this country. I want that the House should be dissolved at once and Members should seek a re-election on this issue. Let there be a fresh issue, like the issue in Burma, on this White Paper, then Government can see what amount of support they get from the public of this country. Instead of dissolving this House, instead of making the White Paper the main issue on which to contest the fresh elections, the Government are extending the life of the present Assembly. They are further gagging the press and suppressing the free expression of opinion by the people. The dumb millions of this country and the real leaders, who are inside the prison bars, have all been deprived of an opportunity to have their say on this White Paper. Is it fair, I ask? Is it just, is it equitable? Or is it heinous and treason against humanity? It is with great feelings of regret that I am opposing this Resolution today. If anybody asks me as to what I see of the future of India, I can tell him only one simple thing, which is contained in the Paradise Lost, a description of hell:

"As far as the angels ken,

We view the dismal situation waste and wild,

A dungeon horrible, on all sides round,

One great furnace flamed,

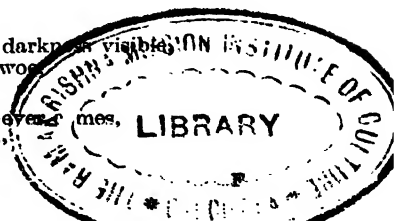
Yet from those flames no light but rather darkness visible,

Served only to discover the sights of woe.

The regions of sorrow the doleful shades,

Peace and rest can never dwell, hope never comes,

That comes to all but torture without end."





**Mr. Muhammad Anwar-ul-Azim** (Chittagong Division: Muhammadan Rural): I am indeed very much grateful to you for being able to catch your eye at this hour, but I should not have caught your eye immediately after the whirlwind speech of my Honourable friend, the representative of the zemindars of Bengal of which I am a constituent factor. It is very unfortunate that we often forget ourselves and try to take shelter under rhetoric—we forget the common courtesy which we in general society stand to a fellow being. I will not question, Mr. President, whether this House is in any way connected with Standing Order 29 prescribed under the Government of India Act, nor will I question the propriety of other friends who have spoken before me attacking so ferociously an Honourable Member, a colleague of ours here. But I must say, I do not want to use an exaggerated expression, I will only use a mild word,—it would be rank bad form to abuse a fellow Member here on the floor of this House under the protection of the Government of India Act and the rules and Standing Orders thereunder. So much for some of the points with which Mr. Lahiri Chaudhury did his *bismillah* here in this House. But I was rather amazed to find my Honourable friend, the Deputy President, coming out as the torch bearer on behalf of the Congress thinking or feeling perhaps that he had the strength in him to lead the forces of the Congress, or that he was in a position to deliver the goods on their behalf as an *amicus curiae*. This question has been very often discussed here on the floor of this House and I think the Government have often been asked whether or not they are in a position to come to a decision with regard to the release of Mr. Gandhi.

If I am not mistaken, my Honourable friend, Mr. B. Das, from Orissa has often been asked by the Government, the occupants of the Treasury Benches, whether he was in a position to deliver the goods. What seems to me is this. The Government will surely consider the situation from different standpoints if either my Honourable friend, Mr. Abdul Matin Chaudhury or Mr. B. Das, is in a position to play the role of a Jayakar or Sapru here in this House. If my friend, Mr. Abdul Matin Chaudhury, or Mr. Das, or others were in a position to become messengers or ambassadors of Peace, on behalf of the Indian National Congress, I am certain that the Government would consider it with a certain amount of attention. But it seems to me without meaning any harm to them, that neither Mr. Abdul Matin Chaudhury nor Mr. Das nor others, who have waxed so eloquent on the subject, are really in a position to deliver the goods. That is the crux of the whole thing. I have great sympathy with my friends but if they were in a position to deliver the goods, I am certain the Government of India would have considered the question with seriousness. (Interruption by Mr. S. C. Mitra.) My friend, Mr. Mitra, who comes from my constituency, questions the propriety of my putting that question. I feel that not even Mr. Mitra with all his boldness will at this juncture be in a position to deliver the goods on behalf of the Congress, because it seems to me that the Congress has not really considered what will be their position in the coming future. If anybody wants to speak seriously and sincerely on behalf of the Congress, I am certain, there are other avenues absolutely open to them and I, in my own humble way, as a lawyer, would advise them to try them and not this forum. The Calcutta Congress does not seem to be in any mood to consider the situation from any changed angle now.

Mr. President, I want to be logical in my speech. I also feel that relevancy ought to play some part in our talks here. I was nearly taken off my feet when I listened to the thundering eloquence of my Honourable friend, Mr. Lahiri Chaudhury, the representative of the zamindars of Bengal in this House, when he uttered this question, how long are the British going to continue here? I think that is capable of answer in a very short word, and my answer to him would be, as long as they continue to be just and equitable. My feeling is that the British in this country ought not to be afraid of a civil war here nor the description of the hell as given by my co-collegian—John Milton—should frighten anybody as long as justice and equity are their watchwords in all their actions. If that be so, they can justly claim to continue here for many hundreds of years. Certain friends have also taken objection as to why the honoured name of Mufti Kifaetullah has been put in the very same Resolution. I have no quarrel with Mr. Maswood Ahmad, if he feels that by roping him in in this Resolution he will be able to get an easy passage out for Mufti Kifaetullah as well. But I think the so-called nationalism of the Mufti Sahib and others are not to be pursued as an ideal to unify the different votaries of Islam in this country. Personally I have very great regard for him as a learned man in Muslim law, but if a gentleman of Mufti Sahib's experience and knowledge tries to take the law into his own hands, Mr. President, I am afraid he has got to thank himself.

Previous speakers have waxed eloquent on the merits and demerits of the White Paper. I have no quarrel with them. I will have my chance of expressing my opinion as the President of an all-India organisation, but what I feel is this, that the Constitution should be given a chance for what it is worth, and, if it was possible to take away the rough corners from its various parts perhaps it will be worth trying. With these words I resume my seat.

**The Honourable Sir Harry Haig** (Home Member): Sir, the debate on this Resolution has perhaps inevitably suffered from the conditions under which it has taken place. Honourable Members of this House have perhaps almost forgotten what happened on the 15th February—the ironical suggestion made by my Honourable friend, Pandit Satyendra Nath Sen, that Government should release Mr. Gandhi in recognition of his friendly act in dividing the Hindu community. The debate was resumed on the 1st March and, after a few speeches including one by my Honourable friend, Mr. Ranga Iyer, of a moderate and appealing type, it was adjourned at the request of Honourable Members opposite who explained that they found some embarrassment at that time in making up their minds as to how they should cast their votes.

And now, just one month later, the debate reappears for the third time and this time we find it introduced by our new Deputy President. My Honourable friend, Mr. Abdul Matin Chaudhury, was, I am sure, endeavouring most sincerely to develop that sense of statesmanship in himself which he found so sadly lacking in me, and his speech, apart from certain personal references to myself, which are neither here nor there, was couched in conciliatory terms. But I felt tempted to ask Mr. Abdul Matin Chaudhury what are his credentials. Does he speak for the Congress or is he merely giving expression to certain anticipations based on goodwill and the desire for peace? Is his statesmanship based on

[Sir Harry Haig.]

facts or is it based on surmises? Sir, I think those who aspire to statesmanship should endeavour to base their policy on the facts so far as they can be ascertained and that will be my endeavour in the views that I shall lay before the House this afternoon. Though I oppose this motion, I do sincerely acknowledge the spirit of goodwill in which many of the suggestions have been made. Peace, Sir, it has been said, is the greatest interest of the British Empire, and peace, I am certain, is the greatest interest of India, internal peace, political peace. The question I have to ask myself is whether these proposals will in fact facilitate peace.

Now, Sir, it has been argued that we cannot expect a dispassionate consideration of the Constitution until the civil disobedience prisoners have been released. Could we expect it then? Let us put the matter positively instead of negatively. What are the positive results anticipated from a release of the political prisoners? I take it those positive results, which certain Honourable Members opposite anticipate, are the restoration of peaceful conditions in the country and the co-operation of the Congress in the new Constitution. Those ideas take us back to the atmosphere of 1931. It was precisely with those aims in mind that the Government of the day made what I venture to describe as an extremely generous gesture. Those ideas carry an obvious appeal to men of goodwill, that peace should be secured by agreement and that all should have a chance of co-operation in the framing of the new Constitution. At that time a magnanimous course was followed and I am glad that it was followed. It was right that the experiment should be made. The jails were opened. The Congress were invited to offer their co-operation in the further working out of the new Constitution. I mention past history in no spirit of bitterness, but I do think that it is necessary calmly to examine the facts and to form a judgment upon them so that our action in the future may have some solid basis. Was that gesture received in the spirit in which it was made? I say, Sir, emphatically, No. Within a short time, it became manifest that there was an organised attempt to utilise the settlement as a means for the preparation for a further conflict. The terms of the settlement provided that civil disobedience should be discontinued. To the Government that meant peace, but to the Congress it meant truce. Hardly had the pact been concluded than the word "truce" resounded from all Congress platforms (*An Honourable Member*: "It is truce"), and truce with that mentality, with the mentality of war, naturally degenerated after an uneasy interval into war once more. It is no use making peace with those who merely want a breathing space. To make peace, Sir, one wants a reciprocal spirit of peace, and that is what we are looking for, and hitherto looking for in vain. All this, Sir, justifies, and in my view necessitates, due caution on the part of Government. We cannot ignore the lessons of experience. After these two devastating outbreaks of civil disobedience—for they have in fact been devastating to the country—after these two outbreaks, we must endeavour to ensure the peace of the country. If, in fact, the Congress do not mean to revive this struggle, why should that not be made plain? Is there a mental reservation that, if the policy of Government is not to their liking, if the principles of the Constitution do not embody the Congress mandate—and I shall have a word to say in a few moments about that Congress mandate—they will hold over the head of the Government the threat of a revival of the civil disobedience movement? Sir, there can be no co-operation under a menace of the renewal of civil

disobedience. We have no wish to keep these prisoners longer than the circumstances require. But, equally we are determined not to let them out when their release might lead to a renewal of the civil disobedience movement. We must not risk the re-starting of trouble by premature action. Our position has been summed up in the words used by the Secretary of State in the House of Commons. He said:

"We must have convincing reasons to believe that their release would not be followed by a revival of civil disobedience."

Therefore, Sir, the question really resolves itself into this. What is the Congress attitude? I admit that it is difficult to get direct evidence about that. Men of peace, men who are desirous of bringing about peace in this country, suggest to us frequently that the Congress have changed their attitude, their outlook, their methods, and that they now desire—as we desire—peace. But that view is not very consistent with the evidence of the activities of members of the Congress that come under our eyes. It is, of course, a few months ago that Mr. Rajendra Prasad was the acting President of the Congress; but, in a statement, which he made, I think, at the beginning of this year, which he circulated—it was intended as a manifesto to all members of the Congress—he said:

"We are bound in honour to and do most solemnly renew our pledge of independence and reiterate our determination to continue the fight for freedom with truth and non-violence as our watchwords and non-co-operation and civil disobedience including non-payment of taxes as our weapons."

Well, Sir, that at any rate is an uncompromising assertion. Then, there is the question of what is the attitude of Mr. Gandhi himself. That is a matter on which no one but Mr. Gandhi can enlighten us. But it is obvious that as soon as Mr. Gandhi was released from jail, the problem would at once confront him—a problem which at the moment, I should judge from such utterances of his as I have seen, he prefers to put on one side—as to what attitude he should take with regard to civil disobedience. And, Sir, who is going to assure me of what the answer would be? Then, again, there are other leaders of a more extreme type than Mr. Gandhi who are at present in jail. What is their attitude? What would be their course of action if they were now released? It has been said, Sir, that the Congress might co-operate in devising and working the new Constitution. I wish that were true; I hope it may be true. When they are prepared to co-operate, we should welcome them. There are many at present in the ranks of the Congress who, I have no doubt, are pre-eminently fitted to help in the working of the new Constitution; and I venture to affirm my belief in those words uttered by His Excellency in his address to this House when he said that he believed that the march of events would bring them in. But has the time come yet? Politics, Sir, seem to me to consist in realising what is possible and making the best use of it, and not in demanding indefinitely what is impracticable. But have the Congress come to that position? I sometimes feel that the Congress have a different picture of democracy to that which we English people entertain, and which His Majesty's Government have in mind in the Constitution which they are at the present moment framing. I cannot help wondering whether the Congress still do not picture the future of India as what one might call the dictatorship of the Congress under democratic forms. That, Sir, is a feature that confronts us in various parts of the world.

[Sir Harry Haig.]

The most conspicuous example of a party, a well-organized party seizing the reins of power and establishing an absolute dictatorship over the rest of the country was in Russia. That was the position of the Communist party in Russia—a very well-organized party; they seized power for themselves and established their dictatorship. Now, Sir, if those are still the views of the Congress (*Mr. D. K. Lahiri Chaudhuri*: “They are not”), then I think that there are very great dangers ahead in this country and that no peace is in sight until those ideas are absolutely discarded. Would release, Sir, at the present moment be used for co-operation or for the old policy of destruction? Now we were invited in 1931 to release Mr. Gandhi in order to secure the co-operation of the Congress, and it is important to consider what conception of co-operation in this matter the Congress entertains. I have refreshed my memory in the last few days as to the nature of the co-operation which Mr. Gandhi extended to Government when he was released in 1931, in order that the Congress might participate in the further constitutional discussions. I happened to be in London myself during the period of the Second Round Table Conference and I heard Mr. Gandhi make his first speech to that Conference. I have it here. He started by saying:

“I have come to London to attend this Committee absolutely in the spirit of co-operation and to strive to my utmost to find points of agreement.”

Nothing could be more promising than that. But, then, he went on to say:

“I am here to put forth that claim (*that is to say the Congress claim*) on behalf of the Congress in the gentlest manner possible but also in the firmest manner possible.”

And, then, with a gentle manner, he read out the Congress demand which started with these words:

“This Congress, having considered the provisional settlement between the Working Committee and the Government of India, endorses it and desires to make it clear that the Congress goal of *Purna Swaraj* (*meaning complete independence*) remains intact.”

He then went on to explain that the Prime Minister's statement at the close of the First Round Table Conference, which was really the basis of discussion, so far as he was able to understand it, fell far short of what was aimed at and claimed by the Congress. Well, Sir, it might be said that this was only a statement of an extreme position put forward at the beginning for the purposes of bargaining and that a spirit of compromise would make itself felt during the proceedings. But, Sir, Mr. Gandhi's last speech at the Round Table Conference was of a very different type to that. It was what I should call a menacing speech. It was delivered at the end of November just one month before he landed in India. After explaining his dissent from many of the conclusions of the Conference, he went on to say that the Congress represents the spirit of rebellion and he made it clear that he differed from the view that India should achieve her liberty through negotiation and by argument. He said: “The Congress has an alternative which is unpleasant to you” and he made it clear that the alternative he had in

mind, the alternative to negotiation, was force, and the method was civil disobedience. He said:

"No Government may tolerate civil disobedience but Governments have to succumb even to these forces as the British Government has done before now."

And unless the British Government conceded willingly the claim (and I would remind the House that he said that the Congress claim was registered as complete independence), he made it clear that they were to be forced by the method of civil disobedience to concede that claim against their will.

Now, Sir, as I said, I speak in no spirit of bitterness, but these are facts and we have got to take them into consideration today. At that time there is no doubt that Mr. Gandhi and other leaders of the Congress had complete confidence in the irresistible power of this weapon of civil disobedience. It may be that they have now lost that confidence. But we must be assured that there is, in fact, a change of spirit, that it is no longer a question of forcing the Government by these means to make concessions which they do not believe are reasonable, and that it has been replaced by a spirit of attempting to reach agreement by negotiation and argument.

Now, Sir, much has been achieved in the three sittings of the Round Table Conference (*A Voice*: "Question"), and the Joint Select Committee is about to sit on the proposals which are embodied in the White Paper. We want help from all men of good will, but we do not want to encourage the wreckers. Have the Congress any contribution to make at this critical period of India's history or is it, as it has been so continually in the past, a mere bunch of negatives? If they have any contribution to make, let them drop their talk of complete independence and let them drop their talk and their policy of civil disobedience. (*Maulvi Sayyid Murtuza Saleh Bahadur*: "What about Dominion Status?") We want the co-operation of every section of Indian opinion in the work of constitutional reforms. It is no pleasure to us to find ourselves in conflict with any considerable body of opinion. But the Congress has for long been pursuing false aims and using disastrous methods, and until it abandons those aims and those methods, there can be no real co-operation. In the past, Sir, the hope of Congress co-operation has been too often like a will-o'-the-wisp, the following of which leads the traveller into strange and dangerous places. What we are looking for is the steady beam of light betokening a habitation where one can enter with confidence and rest and feel secure.

**Major Nawab Ahmad Nawaz Khan:** Sir, on a point of explanation. I wish to show Mr. Maswood Ahmad this copy of the Koran to prove . . .

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. The Honourable Member has made it clear that the passage is in the Koran. That will do for the purpose of this House.

**Major Nawab Ahmad Nawaz Khan:** But he has said . . . .

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. The Honourable Member can pass the book on to Mr. Maswood Ahmad.

**Mr. Lalchand Navalrai** (Sind: Non-Muhammadan Rural): Sir, on a point of order. Is it permissible to bring the Koran here to intimidate people?

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order.

**Maulvi Sayyid Murtuza Saheb Bahadur**: (South Madras: Muhammadan): Sir, but for the speech of the Honourable the Home Member made just now, I would not have intervened at this time. Sir, the Home Member asked the Congress people through us whether they are prepared to give up their demands for complete independence and to call off civil disobedience. I want to put a question to the Home Member. Supposing they signify their willingness to surrender these two things, are Government prepared to give India Dominion Status, and is the Home Member prepared to give an undertaking on the floor of this House to that effect? May I expect a reply from the Home Member who spoke, as he said, in a spirit of bitterness?

**The Honourable Sir Harry Haig**: Sir, I must intervene, I did not say that I spoke in a spirit of bitterness; I said exactly the reverse.

**Maulvi Sayyid Murtuza Saheb Bahadur**: He might have said exactly the reverse, but, from the very vehement way in which he spoke, I am led to think that he gave full vent to his spirit of bitterness and, as I hear some of my friends saying, it was nothing but bitterness. Sir, I had no occasion to give expression to my views on the White Paper during the last three days; but now inasmuch as the Home Member has repeated that the Joint Parliamentary Committee is going to give much power to India, that they are prepared to frame a very generous constitution, good legacy for maintaining peace and order in India, that they are anxious to give prosperity to India as the real custodians and trustees of Indians, then I have to meet his argument to a certain extent. The other day when the Bill relating to the Criminal Law Amendment Act was being discussed here, we were held out an assurance by the Law Member and the Home Member that much power was being given to Indians and that the Third Round Table Conference which was then in session in London was sure to transfer much of the real power to India. The Home Member then observed that I was singularly ignorant of what had been transpiring in the Round Table Conference and that is why I entertained some doubt as to the outcome of the Conference. I will now request him to see and judge for himself from what has been outlined in the White Paper, how far we are going to realise our hopes and how far he was and is in the know of things. Sir, we are not going to get anything. Even what we are going to get is not going to be satisfactory not only to the Congress people but even to the non-Congress people. He said during his speech that dictatorship could not be put up with. As if Gandhiji is a dictator and he has no working committee, no all-India Congress Committee and none to support him whole-heartedly and it is his voice and his voice alone that predominates. If the Honourable Member will read the proceedings of the Calcutta Congress he will find how Pandit Jawaharlal Nehru and Mr. Subhas Chandra Bose were able to counteract Mahatma Gandhi, so much so, that he was about to surrender to them.

Not only that, Sir. If the Home Member should again take the trouble to read the proceedings of the Ahmedabad Congress, he will find that when Maulana Hasrat Mohani moved the Resolution for complete independence, Gandhiji had to take a great amount of trouble to approach each and every member not to support that Resolution. Sir, so far as I know he has always been for Dominion Status; but he was driven to the necessity of making common cause with other Congress leaders to pass a Resolution for complete independence at Lahore on account of the tenacity which was displayed by the Government of India. But for their tenacity such a Resolution would not have been passed there. Even now, as I said, if any assurance can be held out to the effect that India shall have Dominion Status, I think the matter can be very amicably settled.

Then, again, Sir, some of my Muslim friends pounced upon my Honourable friend, Mr. Maswood Ahmad, for having included Maulana Mufti Kifaetullah in this Resolution. I want to ask those gentlemen whether Mufti Kifaetullah is not one of the political prisoners. When they have so much admiration for him, why should they not support Mr. Maswood Ahmad's motion? Some Muslim friends and a few Hindus may not be admirers of Gandhiji, but I may assure the House, Sir, that 90 per cent. of the Indians as a whole are admirers of Gandhiji, though many of them are not his followers. He may be wrong in having taken to a method which has not proved very effective. But his *bonâ fides* and his followers' *bonâ fides* cannot be questioned by anybody. He and his party have made so many sacrifices and subjected themselves to so many sufferings and hardships for the well being of India and Indians according to their own light. Government who pose themselves as our custodians and trustees have not given a practical proof of the veracity of their statement. (Hear, hear.) Sir, White Paper is quite clear on that point. Supposing something substantial we are going to achieve after the Joint Parliamentary Committee, as the Home Member has said, why do the Government not agree with us at least in this point that, so far as the delivery of goods is concerned, it is the Congress that has to undertake the duty through Gandhiji? Sir, is there anybody in the House that can question it? The Congress organization happens to be the only well-organised institution throughout India, a point which has been recognised even by the Viceroy and by the whole Government? Even supposing the Joint Committee do succeed in effecting palpable changes in the future Constitution, which I do not believe, even supposing many favourable things come to pass, I may assure the Government that there would be a lot of difficulties in putting them to action. How long can a Government go on imprisoning persons, numbering 50,000 or 60,000? Is this a wise policy of maintaining peace and order? So, Sir, the Government should see their way to release all the political prisoners including the Congressmen, including Jamiat-ul-Ulema members and workers and all other political prisoners who have not committed any act of violence. As I once remarked, Sir, this non-violent civil disobedience movement cannot be killed by any Act. Government have fully realised this point and yet they won't give way. Of course we are going to hold discussion on that point shortly. So I need not take the time of the House by developing it. Sir, as regards the dictatorship, I may say one thing. The real dictatorship is now to be enjoyed by three kinds of rulers: The supreme dictatorship is to go the Secretary of State, the dictatorship is to be enjoyed by the Governor General and the Provincial dictatorship is to be enjoyed by the Provincial Governors and not by either Mahatma



[Maulvi Sayyid Murtuza Saheb Bahadur.]

Gandhi or by any of his followers. (Hear, hear.) This point I have tried to convince my friends on the other side of this House with the hope that they will put forth genuine efforts to amend matters and create good atmosphere for the welfare of India and British Empire.

**Mr. B. Das** (Orissa Division: Non-Muhammadian): Sir, during the five minutes' span of life allotted to me on this Resolution, I would just say that the Honourable the Home Member made a very weighty statement. I am glad he lifted the veil of what happened in 1931 and he described that history. I am glad to know the view point of the Honourable the Home Member and that of the Government of India. He was then in England. Of course he did not participate in bringing out the Gandhi-Irwin Pact.

My friend described Mahatma Gandhi as the dictator, but while I was listening to his speech, I could not recognise whether he was replying in the voice of a Mussolini or a Hitler. Well, I took it that he was dictating. He was telling that Mahatma Gandhi was not to compromise and so he is not going to release Mahatma Gandhi and other political prisoners. What about the telegrams and cablegrams that surely the Honourable the Home Member has got in his file and the India Office has got in its file, between England and India, between the friends of India and the friends of Congress and also prominent Congress leaders who were very anxious in the months of November and December last and in January this year to create a favourable atmosphere to bring about peace in India? The fact is that Government are in trouble. They knew that the Government at Home were for the release of Mahatma Gandhi and other political prisoners. That was the impression got by that prince of moderates, Sir Tej Bahadur Sapru and also by his lieutenant, Diwan Bahadur Ramaswami Mudaliar. I am sorry he is not present here. I am sure he is a party to it. Sir Tej Bahadur Sapru was assured in London that as soon as he landed in India, Mahatma Gandhi and other political prisoners would be released. Why were they not released? Now, my friend has lifted the veil. Sir, I will also lift the veil a little. What happened in 1931? A friend of Mahatma Gandhi asked him: "Well, Mahatmaji, while you are getting 75 per cent. of the Dominion Status of Swaraj, why do not you accept it?". The Mahatma said: "Well, if I am convinced that I am getting even three annas worth, *i.e.*, something like 20 per cent. even, then I will accept." My friend, the Home Member, who did not participate in the White Paper discussions gave out his views today. My friend knows that the White Paper does not contain even transfer of 20 per cent. of power and responsibility to us. My friend, Sayyid Murtuza Saheb Bahadur, has pointed out that if Mahatma Gandhi led the civil disobedience movement, it is non-violent civil disobedience movement and so what was the use of calling him Mahatmaji, a wrecker.

Somebody yesterday and somebody this morning said,—it is my friend, Mr. Yamin Khan—that the civil resisters inspired communalism in the country. Well, they can say anything they like, but if I can interpret the thought of the political prisoners who are in jail and their colleagues who are outside this House and who are not here, they will say in the words of Sir Samuel Hoare:

"The caravan passes by:  
Let the dogs bark."

So the caravan of the Congress is passing by. (Hear, hear.) It matters little for them. Probably and even certainly it is the view of the Govern-

ment of India that Congress leaders should not be released. Sir, I was going to say "probably", but I did not mean it, as who knows that the Secretary of State and the British Government are not going to part with even 20 per cent. of the power? Therefore, the Honourable the Home Member can dictate and he can keep the political prisoners, Mahatma Gandhi and others in jail, but to accuse them that they are the wreckers and Mahatma Gandhi did not even want the Dominion Status is not to reveal the whole truth. I would remind the House what my friend, Sayyid Murtuza Saheb Bahadur, said that there was a difference in the Congress camp. There is a certain section who wanted substance of independence. . . . .

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. Mr. Lalchand Navalrai.

### MOTION FOR ADJOURNMENT.

#### WHOLESALE ARRESTS IN CONNECTION WITH THE CONGRESS SESSION IN CALCUTTA.

**Mr. Lalchand Navalrai** (Sind: Non-Muhammadan Rural): Sir, I  
4 P.M. move that the House do now adjourn and, in doing so, I have two objects in mind.

[At this stage Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) vacated the Chair which was occupied by Mr. Deputy President (Mr. Abdul Matin Chaudhury).]

The first is to try and draw the attention of this House to the wholesale arrests of Indian men and women, men of status and position, who have gone to attend the Calcutta Congress, men who were going to attend the Congress and even those who intended to go to attend the Congress. The second object is to draw the attention of the Government that this wrong policy of theirs, this wrong policy of repression, should be put a stop to. No country, no Government has gone on ever with repression. It is only conciliation and the seeking of goodwill that makes for good government and establishes it in people's hearts. At the very outset, I must say that I am not a Congressman, I am not a member of the Reception Committee of the Congress, and that I have no hand in the management of the Congress. I may also inform the House that I do not want to attend the Congress nor have I any intention of doing so, not from the fear that I may be arrested, but because I have no intention myself of doing so. As a disinterested person, therefore, I give this advice to the Government that they should not do things which excite the people. Instead of bringing in a good atmosphere into the country, the Government are leading to a disturbed atmosphere. The Government are seeking to put down the Congress in an indirect manner. The Congress is not an unlawful body. In answer to questions here, the Honourable the Home Member has said several times that the Congress is not an unlawful body; and the same view, I find, has been taken by the Bengal Government. This question, which I am discussing on this motion, was debated in the Bengal Council on the White Paper Debate, and there it has been said—I am reading from the *Hindustan Times* of today:

"Replying to a series of questions in the Bengal Council on Friday, in connection with the Calcutta Congress Session, Mr. Prentice, Home Member, said that no order has been issued prohibiting the ensuing Session of the Congress in Calcutta and that the Congress itself has not been declared as an unlawful body."

[Mr. Lalchand Navalrai.]

Sir, I am really amazed. As a lawyer, I would appeal to the grandest lawyer in the House, the Honourable the Law Member, to say whether, if any assembly is not an unlawful assembly, but is a lawful one, is it or is it not illegal that people should be arrested when they intend to go to a lawful body, and, furthermore, that they should be arrested when they have only an intention of going there?

**Mr. O. O. Biswas** (Calcutta: Non-Muhammadan Urban): Was not the Reception Committee declared unlawful?

**Mr. Lalchand Navalrai:** I was coming to that. That is my second point. Coming to the second question to which my Honourable friend from Bengal is very anxious to know the reply, I know it has been said by the same Home Member that the Reception Committee had been declared an unlawful association. But, Sir, may I know if all these arrests have been made because these people have actually joined the Reception Committee? I would say that those who actually reached Calcutta, according to my information, had not yet enrolled themselves as members of the Reception Committee when they were arrested. Is that legal? Is that lawful? Is it British or un-British? Still more, Sir, if people are going to be arrested when they have simply started from their homes and have not yet reached Calcutta, I cannot possibly see that there is any law which would allow this sort of thing—not even the rules and regulations that have been made under the Special Emergency Acts. I submit, it is not a few people who have been so dealt with. There are so many who have been arrested from all nooks and corners of India. I find, with great pain, that people from my own province of Sind have been arrested in Hyderabad and Karachi and other places, even though they had not yet reached the railway station. By this course of action, we lose confidence in the Government, and, I submit, it is high time, now that the Constitution is in the making,—a Constitution which is opposed by the people and is considered by them unsatisfactory—at a time like this, it is the duty of the Government to see that such things as these are not put into force: it simply adds insult to injury. Sir, I have absolute sympathy with those who have been arrested, because I feel that they have been unlawfully arrested. I think, on the other hand, that the Government ought to be thankful to these people who have adopted non-violence as their creed. Non-violence has saved the Government. Government should be very thankful to the hero of that non-violence movement that has saved the Government. Otherwise, like Bengal, which is teeming with terrorists, the whole country would have been like Bengal. The Government should, therefore, be thankful to Mahatma Gandhi for it. I would ask Government whether the situation is not something like this: these people are going to attend a lawful meeting, a meeting which has not been declared unlawful. Can you not then compare it with the meeting in this House of the Assembly which is absolutely lawful? And if, a Member, who is on his way to attend this Assembly and claims his right to do so, is arrested, is there any law under which you can justify his being arrested only because he desired to attend the Assembly? Sir, it is exactly like that, and unless and until the Government come forward boldly and say that they hold the Congress an unlawful body, it is very unjust to arrest the delegates. We have put direct questions in this House on this point;

I have myself several times asked in this House as to where is the necessity of approaching the matter in this indirect and circuitous manner, which is rather, I should call, infamous. If the Government hold the Congress an unlawful body, then they should openly say so, but why do they say that they do not regard the Congress an unlawful body and yet arrest the delegates or people who wish to attend the Session when they are on their way to Calcutta?

Then, Sir, in my opinion, there need be no apprehension in the mind of any one about any disturbance taking place by holding the Congress Session in Calcutta or anywhere. If Mahatma Gandhi had been set free and if the Congress Session had been held under his presidency, there would have been greater safety to the people and the Government alike, but in his absence the Congress was going to be held under the presidency of that revered leader of India, Pandit Madan Mohan Malaviya, whom this House knows very well. Honourable Members know very well the very moderate views of Pandit Malaviya, and if the Congress Session had been allowed to be held under his presidency, there would have been absolutely no harm, no kind of disturbance would have taken place. But may I not ask, when Government boasts that they have got the power to stop any meeting in the event of any disturbance taking place, why could they not have waited until actually the Congress Session was held and then taken any action they liked if there arose any necessity. There are several meetings held all over the country and we know even *lathis* are used in some of those meetings, but such things would not have happened in the Congress if it were permitted to hold the Session under the presidency of a man like Pandit Malaviya. In that sense the Government have become irresponsible, because when they have the power to stop the Congress or, any meeting for the matter of that, if there is fear of any disturbance of the public peace, why did they resort to this harsh step before the meetings were actually held?

**Mr. C. C. Biswas:** Prevention is better than cure.

**Mr. Lalchand Navalrai:** I do not think my friend will accept the position as a lawyer. It appears to me that the methods by which these people are being arrested are so costly that it is really a drain upon an already bankrupt Budget. Not only people are going to Calcutta by rail, but I am told that people even from far off villages are going there on foot,—that is what the papers say. Now, is the Congress dead? I say no, but the activities of the Congress are going on in a silent and non-violent manner. . . . .

**Mr. Deputy President (Mr. Abdul Matin Chaudhury):** The Honourable Member has got only two minutes more.

**Mr. Lalchand Navalrai:** Thank you, Sir. I shall just conclude. I think it is only the question of prestige that has entered into the head of the Government in resorting to this step. They want that Mahatmaji should come out in the open and offer his terms and declare that he will give up the civil disobedience movement, but, are the Government giving him a chance to come out and express his views, and if there was any period when Mahatma Gandhi should have been allowed to have his say, it was at the present juncture. Government have locked him

[Mr. Lalchand Navalrai.]

up, as also all the leaders of the country. Mahatma Gandhi knows that, according to the rules and regulations of the jail, he cannot express his opinion. Now, I shall conclude my remarks by merely adverting to the test which is suggested to be applied by Mr. Morgan Jones, M. P., in the Parliament:

"It was no good suggesting that they had a favourable atmosphere in India for discussion until all people representing all shades of opinion were free to discuss among themselves. There were thousands of people in the jail, including large numbers of those belonging to the most influential body of organised opinion, besides its leaders. They had been frequently told that the Government's attitude must be a declaration of the abandonment of the policy of non-co-operation. How did Sir Samuel Hoare propose to put that to test? He pointed out that the Calcutta Congress Session had been banned, and he suggested that the only way that Sir Samuel Hoare could expect such a decision as the abandonment of the non-co-operation was to allow the meeting to be held."

Sir, I move.

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Mr. Deputy President, the Congress, which is the premier political institution in India and which is a perfectly constitutional and legal body, is now because of the measures adopted by the Government, precluded from holding its meeting, and it is not allowed even to express its opinion on the White Paper. It has been made abundantly clear, and we had it from the Government themselves, that the Congress is not an illegal or unconstitutional body, and it is, therefore, difficult for me to understand what is the purpose of Government, when they do not declare the Congress an unconstitutional or illegal body, nor do they prevent its Session being held in Calcutta by passing some orders under section 144 Cr. P. Code, prohibiting the holding of meetings in furtherance of the Congress programme, but yet arrest people in the small hours of the morning in different parts of India and take all possible steps to prevent the holding of meeting of the Congress.

Well, if Government want to tell the world that the Congress is not largely attended and that it has ceased to be representative, for there were not sufficient people to attend the Congress Session, if that is the object of Government in preventing people to attend the Congress Session in Calcutta, then they are entirely mistaken. Do they want to tell the world that the Congress is an unrepresentative body and that there are no delegates to attend it? Perhaps the Honourable the Home Member will explain in his speech what exactly is the purpose Government have in mind in not passing orders under section 144, Cr. P. Code, or under similar sections. I think they are now acting under section 3 of the Criminal Law Amendment Act, which says:

"Any officer of Government, authorised in this behalf by general or special order of Local Government, may, if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is about to act in furtherance of the objects of any unlawful association," (*This is not an unlawful association and so this portion of the clause cannot apply*) "or in furtherance of the commission of an offence under section 23 or of any offence prejudicial to the public security, may himself arrest such person"—(*and here unless and until Government will interpret that the holding of the Congress is an offence, because it is prejudicial to public security, it is not, an offence*)—"without warrant, or may direct the arrest without warrant of such person, and in making such arrest may use any means that may be necessary to effect the arrest."

I do not know really how the question of public security could affect the holding of the Congress Session, and the main purpose of holding

the Congress Session, as far as I could understand, was to discuss the White Paper. Now, Government were anxious to give three days to this House for the discussion of the White Paper, and the Honourable the Home Member narrated to us about the attitude of Mahatma Gandhi in London. May I remind him of the attitude of the British nation itself when, after the Treaty of Versailles, India was invited to be the original member of the League of Nations which was open only to some Sovereign States and self-governing Colonies? Was it not one of the Fourteen Points of President Wilson that every nation will have its right of self-determination? We certainly claim that it is the birthright of Indians to have any Constitution that India likes and not to be dictated to by Britain. Britain may have forgotten those days, those pledges. I do not say,—if I have time, I will explain it later on—I do not say that I am against British connection, but I am certainly against British domination. India alone can and should settle her own Constitution. She may seek the co-operation and advice of the Britisher, that is a different question. But I know also that, under our present circumstances, Britain can force down our throats any Constitution that she likes. That was the reason why I did not like to take part in that insulting discussion that we had in this House. Who cares for the opinion of this House about the White Paper? I know the time will come when India will settle her own Constitution and then will be the time for us to demand it. England is having representative institutions for centuries now, but, even after more than 100 years of British rule in this country, England did not think giving any representative institutions to India. The other day, my Honourable friend, Mr. Amar Nath Dutt, was narrating the story how in the Lord Cross's Act some element of representation was first given to India. Now, there is great anxiety to have more of these things. I say, these concessions are not actuated by any charitable disposition, they can never be. It is certainly true that a nation gets the Constitution that it deserves. What Constitution we deserve we shall get and no power on earth can stop it. It is the contention of the Die-hards in England . . . .

**Mr. Deputy President** (Mr. Abdul Matin Chaudhury): I do not want to interrupt the Honourable Member. but the relevancy of his argument seems to be very far fetched.

**Mr. S. C. Mitra:** The relevancy is this. The Congress is the only political organisation in India whose voice will really decide about the future Constitution, and the arrest of all the delegates in different parts of India under the pretext of any of the criminal laws of the land is an abuse of law. If really Government want some real settlement, it is by the co-operation and help of the national leaders who are mostly represented in the Congress. The relevancy is this. If Government think that the time has come when Indians should form a part, if not the major part, in framing their own Constitution, then they should not keep the Congress delegates in jail when they were gathering in Calcutta mainly for the purpose of discussing the White Paper. The Honourable the Home Member made it perfectly clear today that the Congress leaders cannot expect to be free unless they give up the ideal of independence. I did not think that an Englishman of his position would expect any self-respecting Indian to subscribe to the proposition that even the ideal of independence was not to be claimed by them. For myself, I really believe that there is very little difference between full Dominion Status

[Mr. S. C. Mitra.]

and independence. I claim independence; and if I get full Dominion Status, I shall be more than satisfied, because if we could get real Dominion Status, that would mean independence for India. My Honourable friend, Sayyid Murtuza Sahib, asked the Honourable the Home Member several times, and I think it was my Honourable friend, Mr. Ranga Iyer, who said that even the words "Dominion Status" were not uttered by any of the parliamentary leaders in connection with the White Paper and it does not appear anywhere in that book. If the Home Member likes to be frank and free, he should tell us if they have receded from the original position and that they are not willing even to concede Dominion Status in a diluted form. Let us be plain and frank.

I know that the present policy will merely drive the whole country in desperation into the hands of the extremists. The position of constitutionalists like us here in the Assembly will simply be intolerable between those two extremes. On every occasion possible we have said that the present policy of the Government is wrong and that the Congress should be given full freedom to meet. It is only in the open Session that the Congress can properly give vent to its feeling. Why are the Government so nervous when the Congress Session is proposed to be held publicly, openly, and with the ideal of non-violence? The whole of India is unarmed, and why should the Government be so nervous as not to allow them to decide their future programme? I ask my Honourable friend, Sir Harry Haig, in all seriousness, who is an Englishman, what is left to an unarmed nation like the Indians, if all their wishes, all their resolutions, all their demands are thrown out without the least consideration by the powers that are governing them? What can they do? Is not civil disobedience the only remedy? What else is left after times without number we have begged in vain with a beggar's bowl as my friend, Mr. Gaya Prasad, would say? If all constitutional measures fail to attain what India in an unanimous voice may demand, what is left to a civilised nation like India, which will not go to the barbarity of a war, except to have recourse to civil disobedience? Is really the principle of civil disobedience immoral? I think that is the only moral way by which a nation, that is spiritually strong, can put pressure on the power which is ruling over them only with physical force. It is too much to expect that these Congressmen will say that they do not want independence. But independence, as has been explained more than once by men like the late Pandit Motilal Nehru—the substance of independence will be sufficient. In the Conference of All Parties it was stated several times that we did not want the whole of Dominion Status all of a sudden, we ourselves agreed to have safeguards. After all this, the Home Member says that because the Congress said that their ideal was independence, that should necessarily mean severance from Britain and that will necessarily mean further that every one in the Congress, when let out of jail, will start civil disobedience tomorrow. I think that is assuming too much. If you like to hang a dog, you can give it any name you like, but I say that there is still time for the ruling powers to reconsider their position. They must try to reconcile every section of the people to help the Government, because, due to trade depression, the time has come when only a National Government, with all the energy and enthusiasm of national leaders, can save India from her present position, and this is the case with every country in the world. Foreign rulers, with all their energies, with all their intelligence, will not be able to save the situation.

With these words, I support the motion of my Honourable friend for censuring the Government for not allowing the Congress to hold its Session in Calcutta.

**Mr. Muhammad Azhar Ali** (Lucknow and Fyzabad Divisions Muhammadan Rural): Sir, before the Congress was invited to the Round Table Conference and Mahatma Gandhi and other Congress people went to England, the politicians and the great men of Europe and in England said that the Congress was the only organised body in India and that it was the greatest political body. This was said from the top of voices that the Congress was the only political organisation, the only intellectual body that could deliver the goods to a great extent, if not to the full extent, on behalf of India. Today we find the Congress, and the Jamiat-ul-Ulema subjected to humiliations. They are rotting in jail and are not given an opportunity even to express their opinions on such an important occasion, an occasion when the whole of India is denouncing the White Paper, an occasion when the life and death question of India is hanging before the world.

When we move this motion in this House, our object is simply to bring the matter to the notice of the Government and to give them our definite views on the subject. We know that our voices may not be effective, our arguments may not be convincing, but still we hope that when we move this motion, our voices will reach the British ears and the ears of the Government of India in very express terms. We know, as a matter of fact, that there are two belligerents in the Indian field, one is the Government and the other is the Indian National Congress. Our object here is simply of a peace-maker and not to join any of the belligerents.

[At this stage Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) resumed the Chair.].

It is not only in the interest of the country, but also in the interest of the new Government that may come into being as our national Government, that we ask for the peaceful and calm consideration of the White Paper. Our object is nothing further than that. The Honourable the Home Member said that our Deputy President spoke in a tone of bitterness. It is not in a tone of bitterness, but in a tone which will ensure that our case may not go by default. When we move such Resolutions, we do speak in feeling terms. We use vehement words. They may not be conclusive to other minds, but we want to put it in a language which will be appealing. It is a pity that we could not discuss the White Paper at some length and that several of us could not find the time to say anything on the White Paper. I am one of those unfortunates. But now I would not say anything about it at all, except the fact that if the White Paper is to be received in India in a peaceful condition and discussed in a spirit of conciliatoriness, then we must have a calm atmosphere to consider it calmly, coolly and dispassionately. How can any Government in this country go on when the greater portion of the intelligentsia is confined in jail. Every house is weeping for the father, son or brother or other relatives who are in jail. 1,600 people are in jail. My submission is that only when these prisoners are released, there will be a calm and peaceful atmosphere in the country for the consideration of the White Paper. With these words, I support the motion.



**Mr. N. N. Anklesaria** (Bombay Northern Division: Non-Muhammadan Rural): After hearing the impassioned irrelevancies of my friends, Mr. S. C. Mitra and Mr. Azhar Ali, one would be tempted to reply to them on account of the apparent sincerity behind them.

**Mr. S. C. Mitra:** It requires brains to understand us.

**Mr. B. V. Jadhav** (Bombay Central Division: Non-Muhammadan Rural): Is it a reflection on the Chair that it allowed irrelevant talk?

**Mr. N. N. Anklesaria:** But, I will resist the temptation and direct myself straightaway to the motion of my Honourable friend, Mr. Lalchand Navalrai. That motion I find to be absolutely irresponsible and absolutely ill-conceived. It is irresponsible, because the Honourable the Mover does not know the consequences involved in acceding to it.

**Mr. Lalchand Navalrai:** Question.

**Mr. N. N. Anklesaria:** It is ill-conceived, because it has absolutely no solid reason behind it. The only reason that my Honourable friend adduced was that it was part of a repressive policy. I ask my Honourable friend what is repressive policy. If repressive policy is the enforcement of respect for law, I should welcome that repressive policy and I feel sure that every sane minded man in this House and outside will be with me in that opinion.

**Mr. K. C. Neogy** (Dacca Division: Non-Muhammadan Rural): What is that law please?

**Mr. N. N. Anklesaria:** I will just come to that. The law is laid down in the Bengal Criminal Law Amendment Act and the Public Security Act and if any man offends against that law, it is but fit that he should suffer the consequences of so offending and if a Government do not stand by their law, it would be a serious dereliction of their duty to the whole country. The Congress stands for Gandhism, the Congress stands for non-co-operation, the Congress stands for the non-payment of taxes and the Congress stands lastly for civil disobedience, disobedience of the laws of the land.

**An Honourable Member:** Why don't the Government declare it an illegal body?

**Mr. N. N. Anklesaria:** It is a great pity that the Government of India have up till now not declared the Congress an illegal body.

**An Honourable Member:** You then pass a vote of censure on them.

**Mr. N. N. Anklesaria:** An Honourable Member tells me that the time is fast coming when that body will be declared an unlawful body, and as my Honourable friend, Raja Bahadur Krishnamachariar, said before, "he laughs best who laughs last".

**An Honourable Member:** You are quoting your Leader.

**Mr. N. N. Anklesaria:** Sir, I can say that a man who does not pay any respect to law and order, and who aids, either by deed or by word, its violation is a veritable enemy of his country.

**An Honourable Member:** Opinions differ.

**Mr. N. N. Anklesaria:** Sir, as I said, it is high time that, if the Congress does stand for the subversive activities that I have enumerated, it should be declared an illegal body. If my Honourable friend, the Mover were to know the extreme moral disintegration which Gandhism has brought about, at least in my province of Guzerat, he would think twice before advocating its continuance. Gandhism has set the child against the parent. Gandhism has set the pupil against the teacher. Gandhism has set the wife against the husband. And, lastly, Sir, Gandhism has set, as we all know to our cost, class against class! And it is high time that Government should come forward and stand by the people and do their duty. Sir, the enemies of India ought by this time to know that the policy of compromise and cajolery is gone, and the policy of justice and firmness has come (Hear, hear); and, Sir, with all respect to my Honourable friend, the Deputy President, I would say that if any one man has stood during the last two years between chaos and order in this country, that man is our Honourable friend, Sir Harry Haig. (Loud Applause.)

**An Honourable Member:** And also Mr. Anklesaria.

**Mr. N. N. Anklesaria:** Yes, possibly Anklesaria. (Laughter.) Let me tell that to my Honourable friend, the Deputy President, plainly and frankly. Sir, I am sorry, my Honourable friends are interrupting me in that spirit of levity which is so much to be deprecated in responsible legislators, such as they pretend to be. This is all I have to say against the motion and I strongly oppose it.

**Mr. B. V. Jadhav:** Sir, before supporting the motion moved by a Member from my Province, I wish to congratulate my colleague from Guzerat on the excellent spirit which he has shown and which he is in the habit of showing in this House. (Laughter.) Sir, he has the honour to represent, the same constituency which returned your predecessor: and when the Press gallery reports this evening a summary of his speech, I wish they would spare any efforts to give the full text of his speech so that perhaps the voters of Guzerat will realize their folly in practising non-co-operation at the time of the election. Sir, if anything is wanted to convince the followers of the Congress that their doctrine of non-co-operation with the legislative bodies was wrong, such instances as these will, I am sure, convince them; and I hope and trust that at the next election Congress will not stand out,—because they have to pay a very exorbitant price.

**Sir Muhammad Yakub** (Rohilkund and Kumaon Divisions: Muhammadan Rural): What is that price?

**Mr. B. V. Jadhav:** You, Sir Muhammad Yakub, and the House know that very well, I should think. Now, Sir, to turn to the motion under consideration, up to this morning more than a thousand persons have been arrested at different places and different stations for the simple reason that they were going to attend a session of the Congress which

[Mr. B. V. Jadhav.]

is not yet an illegal body. The holding of a session of the Congress is *prohibited*; it is not illegal; and it has been the practice in all civilized countries that whenever any person or group of persons find that an order of the Government is not a right one, they have the only method of protest by breaking such order. I do not think there is any impropriety in that. Sir, Governments are carried on, after all, by human beings. It cannot be said that any Government is infallible and that therefore all their behests ought to be obeyed without any objection or without expending even a thought over it by a subject. Sir, the orders of the priests and of the churches are sometimes placed before the **congregation under the guise that they emanate from a higher authority, from God**, and therefore are infallible and that they ought to be accepted without any murmur and question. But any order of a lay and secular Government cannot lay any such claim to infallibility: and therefore when any section of the public thinks that an order of the Government is not right but is wrong, then that section has the right to protest against it and to break it. Of course, it does not deprive the Government of the country of the power of exercising their right to punish such delinquents, and I do not condemn Government for the action they have been taking. I am simply placing before them the fact that while they think that their actions are right under the laws that they themselves have made but which are considered by others unjust, the people who have come forward to break them do also realize the consequences and with open eyes they are defying those orders. Government, Sir, is proclaiming to the world that the Congress movement is dead, that the Congress is broken. And one would have naturally expected them to bring about such circumstances as would lend support to their declaration. They ought to have allowed the Congress to hold their session and if they found that the Congress had passed any objectionable resolutions, then they would have had ample time to make use of one of the sections of the Acts they have got passed in this House and in the Bengal Legislature. Under the provisions of those Acts, they could have at once netted together the thousand and odd delegates that would have gone to attend the session of the Congress. They would have been saved a good deal of trouble because an operation in a single place would have been less troublesome, less costly and less uncomfortable. Now, look at the procedure they have followed. They and their officers have been very vigilant in all the places from which likely delegates were to go. Each and every railway train is watched; each and every railway carriage is pried into and in this way a host of Government officers are put to unnecessary trouble. We read that persons are arrested at about 3 o'clock in the morning, quite an unearthly hour, very uncomfortable for the persons who have been arrested and also very uncomfortable for those who carry on the arrests. They say, Sir, that inscrutable are the ways of Providence, but the ways of Government also come under the same category. They are quite inscrutable to persons like me. I would have preferred that the Government should have issued orders to make the arrests in the City of Calcutta alone. Then the police of Calcutta alone would have to take the trouble of making the arrests. The police of all other places would have been free from all bother. But in order to show their might and power and their very good organisation all over the country, the Government issued the orders that arrests should be carried on in every nook and corner of the country. What is the result? The

result is that the Associated Press and Reuter's Agency, both of which are subsidised by Government, will convey to all the four corners of the world the news that the Congress is not dead. More than a thousand persons have come forward courting jail and punishment from the Government. More than one thousand persons have come forward to raise a protest against the laws which Government have made. Sir, each one of these one thousand persons must have got at least half a dozen people to sympathise with him. So the influence of the Congress is expanding and is not diminishing, and the more the Government brings into operation their laws so meticulously, the danger is, the more Congress influence will grow. My Honourable friend from Guzerat says that Government cannot allow their laws to be brought into ridicule. Well, Sir, those who infringe the laws do not bring the laws into ridicule; the laws are brought into ridicule by the framers themselves and by those who bring them into execution. If we shall examine the Statute-book of England we shall find hundreds of Statutes which are now lying dormant and if the Government were so very foolish as to bring any one of them into operation, they will raise a cry of protest all over the country.

**Mr. N. N. Anklesaria:** Has any occasion arisen for it?

**Mr. B. V. Jadhav:** Yes, many a time. Only about a couple of years ago the Sunday-breaking law was called by some enthusiast into operation and he filed a complaint against the cinema theatres being opened on Sunday afternoons.

**Mr. N. N. Anklesaria:** What happened?

**Mr. B. V. Jadhav:** You know that the theatres are going on still; that is what happened. (Hear, hear.) These ridiculous laws cannot be enforced always and at all times. So, what I find is this that instead of suppressing the Congress, Government have helped to make the Congress a live institution. They have revived it; its influence is growing; and as long as Government does not allow the Congress session to be held either at Calcutta or at some other place, so long the prestige of Congress will be on the increase and, I am afraid, Government will look small.

**Major Nawab Ahmad Nawaz Khan** (Nominated Non-Official): When the honour is increased, why do you want an adjournment motion?

**Mr. B. V. Jadhav:** I am not going to censure the Government on that. On the contrary, I wish to say that I congratulate the Government.

**Mr. C. S. Ranga Iyer** (Rohilkund and Kumaon Divisions: Non-Muhamadan Rural): Sir, the Honourable the Home Member, as if by way of anticipation, made a speech on the Resolution regarding the release of the political prisoners and used some arguments as if to justify the banning of the holding of the Calcutta Congress. Sir, he stated in the course of his speech that what he looked for was peace which he keenly missed in the speech that Mahatma Gandhi delivered in London at the Round Table Conference. And his interpreter—though, I am afraid, the Honourable the Home Member might be inclined to say: "Save me from my interpreter"—

[Mr. C. S. Ranga Iyer.]

on the Benches of the Centre Party explained in one phrase that "Gandhism" has possessed the Congress which therefore deserves to be suppressed. Perhaps it is a pitiful thing from the Congress point of view that the Honourable the Home Member and the gentlemen on the Centre Benches have not exchanged their seats. (Laughter.) The Congress was suppressed once and declared as an outlaw but the Government found that it does not pay because suppression makes the meat it feeds on. At any rate, this is so, so far as the Congress is concerned. Sir, the Honourable the Home Member was aghast that the Congress people had the war mentality and perhaps the reason for the prevention of the holding of the Congress is that they persist in possessing the war mentality. But I miss the peace mentality in the Government of India. I want them to develop peace mentality. On the contrary, we have got, as the Honourable Member from Lucknow truly said, two belligerents. We stand between two fires. We have a Government armed with special laws, ready to use those laws to prevent the holding of the Congress to discuss the White Paper and current political events including the political prisoners, their supporters and comrades in jail. Has not the Congress, I ask, the right of meeting so long as you do not declare it an unlawful body? The Honourable the Home Member said that the Congress cherishes ideas of independence. As Mr. Mitra truly said, is the cherishing of independence as an ideal for

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this nation anything false, anything wrong, anything immoral? Sir, I believe in the freedom and the independence of my country, and will the Honourable the Home Member take the responsibility of putting me in jail if I am to conduct a raging, tearing campaign in the country during the election that I stand for independence and freedom as interpreted by the Statute of Westminster? (Applause.) Dominion Status interpreted in the light of the Statute of Westminster, on the highest authority of Mr. Winston Churchill, means independence. And here is our Home Member who comes and tells us that the Congress must put aside its ideal of independence. There is no difference whatever, now that modern science has curtailed distance and shrunk the world, between independence and inter-dependence; and His Majesty's Government are negotiating with the Irish Free State whose leader is devoted to independence, and at the same time he is a welcome guest in 10, Downing Street. We do not stand for independence; we stand for Dominion Status. Have you not got in South Africa two parties, the Republican party and the Democratic party, the Republican party led by the Prime Minister of South Africa? After all in India there may be two parties, the Independence party and the Dominion Status party; but every time you put the Independence party in jail, you make it difficult for the Dominion Status party to go to the country. Why suppress the Congress? Why not allow the Congress to have its say, so that we may have an opportunity of meeting their arguments? So long as you rely on force, you make it difficult for us to preach persuasion; so long as you rely on your special powers, you are driving a nail in what will ultimately become the coffin of constitutionalism. (Hear, hear.) That is my objection to the steps which the Honourable the Home Member has permitted being taken in Calcutta. For, among the men arrested are men like Pandit Malaviya, who never from any single platform to my knowledge has said that he stands for the severance of the British connection. It is the right wing Congressmen who believe in Dominion Status who forced the hands of Mahatma Gandhi to sign

the Gandhi-Irwin Pact. After that there has been no talk of independence from any responsible Congressman that I know of; and until and unless the Home Member proves that the Congress is faced with jail today because the Mahatma came from London and preached independence, I will not take his word.

**The Honourable Sir Harry Haig** (Home Member): May I point out, Sir, that the resolution, I referred to, was a resolution of the Congress passed immediately after the Gandhi-Irwin Pact?

**Mr. O. S. Ranga Iyer:** Independence is an ideal, but the Congress did not repudiate the Gandhi-Irwin Pact which does not embody the substance of independence, not even the substance of Dominion Status. It is *Dominion Status with safeguards*. So long as the Congress did not repudiate the Gandhi-Irwin Pact, I would ask the Home Member not to make it difficult for us constitutionalists to face the country. He is an irresponsible man who can go back to his country and get an ovation from his people for his brave deeds in India. I have to go back to my constituency; gentlemen on this side have to go back to their constituencies, and they will ask us, "What did you get from the Government of India, suppression of the ideal of independence?" Sir, it is too late in the day even for Sir Harry Haig to stand up in his seat with all the might of the Conservative majority in Great Britain and say that Indians dare not cherish the ideal of independence. That is just the way to make them cherish the ideal of independence. The most unhappy justification, the most unreasonable and thoughtless expression that fell from the Home Member today is that until and unless the Congress abandons the talk of independence, the Congress people will have to be in jail and the Congress will not be allowed to be held. That is not the way to peace in this country, it is the way to war; and with the war mentality that the gentlemen on the Treasury Benches possess, they are preaching war while we are planning peace. (Applause.) We want to create an atmosphere for the reforms; he makes it difficult for us by not allowing the Congress people to come together and speak out, think out and say what they feel about the White Paper. The Congress does not consist of mere automatons; one man does not think for the entire Congress. I have been a Congressman for long years who intimately associated with the Congress leaders, I know how deeply they differ among themselves. When the White Paper containing the new scheme of reforms was published, the Government of India should have acted exactly as the late Edwin Montagu acted when his scheme of reforms was published. Edwin Montagu released Mrs. Besant and Messrs. Arundale and B. P. Wadia who were preaching Home Rule.

**Mr. F. E. James** (Madras: European): They did not preach civil disobedience.

**Mr. O. S. Ranga Iyer:** They sowed the seed of civil disobedience; civil disobedience is a child of the Home Rule movement. The Honourable gentleman on the European Benches ought to read recent history with some imagination. The Home Rule movement was a harbinger of civil disobedience. If Mrs. Besant did not preach civil disobedience, why was she interned, I ask. Internment was a blunder then, but she was interned

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and Montagu released her because he wanted to create a peaceful atmosphere in this country. Tilak and others came into the Congress and they discussed the Montagu reforms. There were two parties and one party separated from the Congress to work the reforms. The White Paper is published; I know with the information in my possession that there are Congressmen, keen Congressmen, prominent Congressmen, who want to develop a new angle of vision and to discuss the new crisis, which is a new feature of the reforms. They may not like the scheme; who on these Benches blessed the White Paper? They may criticise it; Government must not be afraid of criticism. Government must not say, abandon independence as the goal, abandon civil disobedience, worship in the temple in which we worship and then we shall allow you to hold the Congress. That is not statesmanship; it is bankruptcy of statesmanship. (Hear, hear.) And so long as this bankruptcy of statesmanship persists on the official benches, relying perhaps on the Conservative majority in England and their war mentality, if this bankruptcy of statesmanship continues, they will only be digging the grave of the constitutional movement in this country. They should have allowed the Congress to meet; with their special powers, if the Congress passed some of the most objectionable things, they would be on stronger ground to put Congressmen in jail. If, on the contrary, the Congress parties differed, as I am certain they would have differed, on the present issue and future plans, if the Congress majority would have repudiated the Congress minority, and if the reformers in the Congress were in a minority, if they had turned away from the Congress or carried on a raging campaign in the Congress itself to hold a special session of the Congress and secure verdict in their favour, that would have been the triumph of common sense and constitutionalism. The Honourable the Home Member does not permit that; he tells Congressmen like Themistocles of old, "I have brought two gods with me, Persuasion and Force,"—persuasion of the White Paper variety, persuasion that you must abandon your ideal and lick the dust, or be prepared for force. The Adrians replied to Themistocles, "Sir, we also have two gods on our side Poverty and Despair." So far as the Congress people are concerned, the Honourable the Home Member by the policy that he advocates, is putting them on their mettle and the reaction will be upon the constitutional movement as it was in Ireland. Were not the Redmondites wiped out? Why then follow the discredited Irish policy of a discredited British Government. (Hear, hear.) I want the Honourable the Home Member to help us, to make it possible for the constitutionalists in the Congress like Pandit Malaviya to assert themselves. Pandit Malaviya has no war mentality. Who ever said, with his whole record before us, that he had war mentality?

**Mr. B. Das** (Orissa Division: Non-Muhammadan): He is the prince of moderates.

**Mr. C. S. Ranga Iyer:** *A propos* what my Honourable friend, Mr. B. Das, says, the Pandit is a moderate among princes and a prince among moderates. He should have been allowed to have his say in the Congress and to lead the country on the right lines. But he cannot say beforehand, "Oh, this is what I am going to say." He cannot say beforehand, "I shall accept Sir Harry Haig's lead". (Laughter.) Then he will be cooking his political goose.

Lastly, Sir, I am saying this to Government, do not behave like Jupiter of the fable. Jupiter, it is said, was angry with a rustic and he threatened him with his thunderbolt. The rustic said, "Jupiter, you are angry". Jupiter developed a sense of shyness and the story runs that he abandoned the thunderbolt. I want the Honourable the Home Member to develop the latter quality of Jupiter, abandon his thunderbolt, make it easy for the constitutionalists both in and out of the Congress to assert themselves so that the constitutional movement will come up again stronger than ever; and if it does not come up again, the White Paper and all that it involves will be but a scrap of rubbish. (Applause.)

**Sir Abdur Rahim** (Calcutta and Suburbs: Muhammadan Urban): Sir, I wish to support this motion. When I read in the newspapers of the arrest of a number of prominent men who were going to Calcutta to attend the next session of the Congress I looked for reasons for this action. Then I lighted upon certain questions that were asked in the Bengal Council as regards the position of the Congress under the new Act and the spokesman on behalf of the Bengal Government said that the Congress had not been declared an unlawful association, and I think he also further said that the meeting of the Congress which was contemplated had not been declared to be an unlawful meeting. If I am wrong, I am sure the Honourable the Home Member will correct me. If that be so, if these statements that appeared in the newspapers are accurate, then I should like to know and it is this that I have so far failed to understand, under what law has the Government taken action? I do not think that any special Ordinance has been issued on this occasion, and I take it for granted that the Bengal Government or the Government of India, have acted under the law that prevails now. I have looked through the Bengal Security Act of 1932, and especially section 4, and I must say that I cannot find that the language of this section applies to what has happened. Throughout the Act, I find the condition is that either there must be an unlawful association or some offence is sought to be committed, that is, in order to prevent participation in an unlawful association or to prevent commission of an offence under the Act that a person may be arrested in this way.

Now, Sir, I wish that the Honourable the Home Member had told us at the beginning of this debate under what law the action was taken, but so far, I can find no legal justification for it. Then, Sir, there is the broader question, which has been discussed so ably and so eloquently by my friend, Mr. Ranga Iyer,—is it politically expedient at this moment that the meeting of the Congress should be banned. Now let us examine. Suppose the Congress had met. I suppose one of their items of business would certainly have been to examine the proposals of the White Paper and we take it further, and let us assume that they would have condemned the proposals of the White Paper in no uncertain language, and perhaps in stronger language than it has been done by this Assembly (Hear, hear), but any way they were not expected to approve the proposals of the White Paper. Now, supposing that was done, may I know how it would have placed the Government in any difficult position? How it would have endangered security and public safety? It is quite possible that the meeting of the Congress might have degenerated into unlawful scenes or violent acts—it might or might not. But surely any Government must take the risk, because in this 20th century you cannot say that people are



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not to have any sort of public association and meetings at all. You cannot, by previous action, by action taken beforehand, by arresting all kinds of people, hundreds of people, prevent meetings to be held, because forsooth you may anticipate that as an outcome of the meeting or during the proceedings of the meeting, there may be some sort of row, some trouble of some sort. Sir, I do not think any Government that we have known so far take up the attitude that they are empowered or that it is their duty to take preventive action of this character, lest any meeting might degenerate into a rowdy meeting. Further, let me see what other consequences the Government might have apprehended. Government might say that they would be propagating dangerous ideas. I suppose that is the sort of position the Government might take up. Now one of the dangerous ideas which has just now been mentioned, is the ideal of independence. So, as it is an ideal of independence, I do not think there is any Indian who does not wish that his country should ultimately be independent. I have myself, time after time, on public platforms and not very long ago, said that I do expect that our country, in the fulness of time, shall become a great nation amongst the greatest nations of the world. I have said so repeatedly on the public platform and so far nobody took any exception to it, and I am perfectly sure the Honourable the Home Member, an Englishman as he is, would be the last person to object to it. I take it then that the objection is not to the ideal of independence, but to any overt action which is calculated or is intended to bring about a severance of connection with Britain. That I can understand to be an unlawful act against which the Government would take any precautionary measure they like. Now, Sir, what reason was there for the Government to expect that by allowing these gentlemen to meet in Congress were likely to take any practical steps which would incite people to take action to sever connection with Great Britain? The Congressmen are fully aware, every one is aware, that the Government has now at its disposal very drastic powers to put down any action of that character. Surely, could not the Government wait and could not the police authorities of Calcutta wait to see what action the Congress and the Congressmen were going to take when they met? I do not like all sorts of what are now called preventive measures. Preventive measures ought to be an exception. If there is an orderly, well-established government, surely it means that the government has means at its disposal to take action when the law is broken and to take adequate action. But that does not mean that the government must ensure beforehand that no sort of crime or offence will be committed in a country like India. No government has assumed responsibility of that character. And indeed if government assumes responsibility of that character, it must mean a sort of rule which cannot be conceived of in the present times. I therefore very respectfully ask the Government, before it is too late, to reconsider the action they have taken. Let these gentlemen go free and let them meet in Congress or in any other meeting they like. Watch them and deal with them if they violate the law in any way.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, I shall very briefly state to the Honourable the Home Member and to the House a point that has been weighing on my mind for some time. Honourable Members will find that the Secretary of State,

when winding up the discussion on the Third Round Table Conference, at page 142 of that report, said :

"Last night Sir Tej Bahadur Sapru made an eloquent appeal for a chapter of renewed co-operation between every section of Indian opinion and ourselves. Lord Chancellor, let me say that there is nothing that I should desire more earnestly myself. I want to see no empty chairs at the conference with the Joint Select Committee. I will give to the words that Sir Tej Bahadur Sapru uttered last night, the full consideration that they demand. He will not expect me this morning to give a definite answer either in the affirmative or in the negative. But I can assure him that I am fully conscious of the expressions of goodwill of which we have had evidence in India itself during the last few months and of which we have had many evidences during the course of our deliberation in this Conference. I can tell him that whatever we may decide, the thing that we wish above all others is that he and his friends"—*and these are the words which I ask Honourable the Home Member to recall*—"shall go back to India and tell every section of Indian opinion that there is opportunity for their help and that we need their help just as we shall go out into Great Britain and tell our friends that after the discussion of the last two years and particularly after the deliberations of the last few weeks, we believe that we can produce before the high court of Parliament a scheme on the lines that we have been discussing that will do credit both to British and to Indian statesmanship."

If this statement means anything at all, it means this: that the delegates at the Round Table Conference were assured that they will be given full right to go and preach and persuade all sections of the Indian community—and in this context the reference was to the Indian National Congress; and the assurance that I see underlying this statement was that members of the Round Table Conference will be free to go and tell every section of Indian opinion that there is an opportunity for co-operation. Now, I ask the Honourable the Home Member one question: what facilities has he given or is prepared to give to the constitutionalists in this country to have access to the members of the National Congress in jail and outside the jail to persuade them that the policy that they have been adopting is a wrong policy and that the policy to which they stand committed of constitutional development is the right policy? That is a point upon which I submit the Honourable the Home Member has not given any reply. It was very summarily brought to his notice once before, but I submit on this occasion when the question about the constitutional reforms in England is so vividly before the Indian mind, facilities which were, if not promised, at least understood, to be given to the Indian constitutional reformers to convert people of Congress mentality to their own views have not been forthcoming. When Dr. Sapru and Mr. Jayakar were interviewed upon this point, judging from the newspaper report, they said it was not for them to convince people still behind the prison bars; and it seems to be obvious. Some members who have returned from England and who were associated with the Round Table Conference have been holding small conferences with members of Congress mentality. The Congress itself was about to hold its session in Calcutta; and if the Government of India had given facilities which were demanded by the constitutionalists in this country of persuading the Congress so as to bring them to their point of view, the Congress could not have been banned, because it offered a splendid opportunity to the constitutionalists to approach them and to persuade them to their own view. That seems to be a golden opportunity that occurred to the constitutionalists and to the Government and it has been lost. The Honourable the Home Member says "How can we deal with people who are pledged to independence and the civil disobedience movement?" I am afraid the Honourable the Home Member has been reading from an old and somewhat obsolete brief. Since that statement was made.

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the Congress as well as those who stood and demanded absolute independence have openly declared that they would be satisfied with the substance of independence and that substance of independence, as my friend, Mr. Ranga Iyer, pointed out, is vouchsafed in the Statute of Westminster. I do not wish to go into the constitutional issue as to what is independence and what is not. But I will assume that the mere demand for independence is a factor which cannot by itself be treated as unconstitutional. It is the right of self-determination and the ideal of independence, demanded by the Indian National Congress, cannot be for that very reason regarded as unconstitutional. The members of the Round Table Conference were told by the Lord Chancellor that "you should demand what is really practical and still keep in mind what is your ideal." And the ideal of independence, I do not think the Honourable the Home Member has yet said was *per se* unconstitutional. Then comes the next question about civil disobedience. Whether civil disobedience is constitutional or unconstitutional, that question is not germane to the discussion. At the point of time when these arrests were made, the civil disobedience movement had neither been started nor any overt act done in furtherance of that movement. The utmost that the Government can say, and justifiably say, is that these members of the Indian National Congress from various parts of the country were travelling to Calcutta preparatory to holding a meeting which might result in the re-establishment of re-affirmation of the principle of civil disobedience. That is the utmost that the Honourable the Home Member can say. But, Sir, I ask the Honourable the Home Member,—and he has in his early days administered law—that there is no section in the Indian Penal Code that I am aware of except one which punishes a mere preparation to do a criminal act as in itself a crime. The only offence that I am aware of, which punishes a mere preparation, is the offence of preparation to commit dacoity, but otherwise you require some overt act of an incriminating character from which the modicum of *mens rea* or criminal intention can be gathered, and that alone becomes then an attempt which is punishable by the general law. I am not aware of any special laws that might have been passed making the mere assemblage of people for the purpose of holding meetings of the Congress as an offence. Members on this side have questioned the Home Member to state under what law these gentlemen have been punished or had been arrested. Now, I will assume for the sake of my argument,—not that I concede it, because I do not know what the facts are and there can be no conceding without a knowledge of the facts,—but I will assume for the purpose of my argument that there is some Ordinance or regulation or special law which permits the arrest of persons who are going to Calcutta to attend the meeting of the Indian National Congress. I ask this question: is the Government prepared to assert that every one of the members who was going to Calcutta was going to Calcutta in furtherance of an illegal conspiracy or an illegal object to promote civil disobedience? Can the Home Member not say that there must be a good number amongst them who were going to Calcutta for the purpose of persuading the Indian National Congress to alter its policy and to resort to constitutional agitation instead of continuing the civil disobedience movement? It has been said,—and I think the Home Member has conceded it,—that there is a growing section of people in the Congress ranks who are tired of the civil disobedience movement and would like to have a more peaceful solution of the constitutional questions that

are looming large in the horizon at the present moment. Now, can the Home Member say that he has any doubt about every one of such constitutionalists who are going to Calcutta and has only arrested those who are going with malignant intentions? Speaking for myself, I cannot believe that men like Pandit Malaviya or Mr. Aney, a responsive co-operator, an elected Member of this House and who himself has several times declared in public utterances which have been published in the Press that he is for council entry,—I cannot believe that these people who were going to Calcutta for the purpose of fomenting the civil disobedience movement, and yet they have been arrested. There has, therefore, been an indiscriminate arrest and what we, on this side of the House, complain is an indiscriminate arrests of all persons who were going to Calcutta, whether they were peace breakers or peace makers. That, I submit, is a situation against which Members on this side of the House are justified to complain, and the motion which my friend, Mr. Lalchand Navalrai, has tabled is intended to draw the attention of the Government to the wholesale arrests that are being made in the name of preservation of law and order, and I hope, Sir, that after this debate is over,—we do not wish to censure the Government,—what we really wish to do so is to persuade them to accept our view point,—I hope after this debate is over we shall have some assurance from the Home Member that they would change their policy and not resort to indiscriminate arrests of their friends and foes alike.

**The Honourable Sir Harry Haig:** Sir, before I come to the more direct issues raised by this motion, I may perhaps, with your permission, be allowed to clear up a point, which though it may bear more directly on the Resolution under discussion in the earlier part of the day, has received a great deal of prominence during this discussion. I refer to the question of independence. I am sure my friends opposite did not intentionally misrepresent the scope of my argument, but I would like to point out to them that my argument in the previous debate was that it was said that by releasing the Congress prisoners we should promote a policy of constitutional co-operation, and I merely pointed out that apparently the policy of the Congress as regards the constitution was one of complete independence, and that appeared to me not to be consistent with any very useful co-operation in the constitutional deliberations. I did not go further than that. I did not say that the repudiation of this was a necessary preliminary to their release. Honourable Members opposite have enlarged at some length on the meaning of independence and have assured me that independence does not mean what one naturally supposes it to mean, that it is not a question of severing the connection with Great Britain, and, in fact, my friend, Mr. Ranga Iyer, in the torrent of his language, I think, explained that independence meant inter-dependence. Well, I am prepared to leave the matter at that.

Now, coming to the real case which the Government have to meet in reply to this motion, I think, I may say that it was argued and put before the House in a most reasonable way by my Honourable friend, the Leader of the Independent Party, and by my Honourable friend, the Leader of the Nationalist Party. I think the main case that they really put before the House was this: is it politically expedient at this time to ban the Congress? I fully realise the weight of that argument. We were not anxious, Sir, to ban the Congress. We do not go about banging our drums and patting ourselves on the chest and thinking that we are very strong men and that therefore we are acquiring a certain merit. That is not the attitude of

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Government. The Government were forced into this action by a certain chain of events. Honourable Members naturally concentrate their attention on what is happening at the present moment. But every event has a chain of events leading up to it and it is that chain of events that I wish to deal with this evening.

Briefly, our reasons for not allowing the Congress session were these. The Congress, as I have said before, stand, pledged to civil disobedience. It stands for an unlawful movement and its activities are directed to unlawful ends. The civil disobedience movement may be languishing, but it is still in existence, and it is still the avowed policy of the Congress. The holding of the Congress session, as Honourable gentlemen opposite are well aware, is always a spectacular occasion. The preparations for the holding of the annual session of the Congress usually occupy a month or six weeks. During that period every kind of means is used—and perfectly legitimately used in normal times—for advertising the strength of the Congress as an organisation and popularising its policy. Now, Sir, if under the present conditions when the policy of the Congress is one of civil disobedience that long period of preparation and advertisement were permitted by Government, what would be the effect on the civil disobedience movement and on the minds of the people of this country? I do not think there can be any doubt that permission to hold the annual session of the Congress this year would have served to stimulate the Congress movement and therefore the civil disobedience movement at a time when it is beginning to languish, and that it would have given rise to vain hopes in Congress quarters and unfounded fears among those who support the policy of the Government, that the Government were contemplating some change in their attitude towards civil disobedience.

**Sir Abdur Rahim:** May I put one question? Why did not the Government then declare the Congress to be an unlawful association if it was identified with civil disobedience so much?

**The Honourable Sir Harry Haig:** I will come to that in a moment. My Honourable friend asks, why did Government not declare the Congress to be an unlawful body. As I have explained before in this House, the Government are never anxious to do more than the circumstances of the case require. In their judgment it was quite unnecessary for the purpose of dealing with the civil disobedience movement to declare the Indian National Congress to be an unlawful association. Such action would have gone far beyond the requirements of the case. It would have rendered liable to prosecution and imprisonment a number of persons who were actually members of the Congress but not active members of the Congress and not really anxious to pursue the civil disobedience movement. But I would like to make this point clear. The Congress cannot expect to lend its name, its authority and its resources to an unlawful movement and, at the same time, to retain all its privileges as a constitutional body. That is really the demand that is being made by the Congress: "We pursue our unlawful movement; at the same time we claim to hold our annual session as if there were no unlawful movement in progress".

Now, Sir, it has been said that the Congress might possibly, if it had been allowed to meet—might have been ready to change its programme. I do not know that Honourable Members who have made that suggestion have really any ground of substance on which it is based. But if we had had any clear assurance that the object of the Congress session was to call off the civil disobedience movement the position might have been different. There was no kind of suggestion, Sir, of such an assurance. I would go further and say that they—I quite admit that the present situation presents certain difficulties to the Congress organisation—I do feel that the leaders of the Congress on this occasion deliberately forced the issue. It was not as if they did not know what the decision of the Government on this matter must be. They had the experience of last year before them. The House will remember that last year in April the Congress endeavoured to hold its annual session in Delhi, and Government for exactly the same reasons, as have influenced them on this occasion, came to the conclusion that that session could not be held. The leaders of the Congress had taken no steps to ascertain whether the Government position was modified, and indeed under existing conditions it clearly could not be modified. They merely announced their intention of holding the session. Now, Sir, I would draw from that the conclusion that they were seeking to put the Government in a certain position of difficulty rather than trying to help to find a way out for themselves.

It has been said a number of times in the course of this debate that the Congress were anxious to meet in order to discuss the White Paper. Again, I do not know on what grounds this suggestion is made. It is not the Government case that they would have the slightest objection under ordinary conditions to the Congress or any other body in this country discussing the White Paper whether their verdict was favourable or unfavourable. I have explained to the House the reasons which in the view of the Government made it impossible to permit the holding of the Congress session. But that had nothing to do with the probable view that the Congress might take on the White Paper. As a matter of fact, Sir, such information as I have in regard to the intentions of the Congress points rather to the fact that they had no intention of discussing the White Paper because a draft resolution was circulated. . . .

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Honourable Member has just got one minute more.

**The Honourable Sir Harry Haig**: . . a draft resolution was circulated saying that the Congress refuses to enter into a discussion. I am sorry I have taken longer over my preliminary observations than I had intended to. The question of the legal position has been raised and I wanted to go on to that. One of the Honourable Members addressed me—I think he must have made some mistake in the direction of his address—as the greatest lawyer in this House. Nobody has previously described me as a lawyer, great or small, and I would like to say that so far as the legality of these proceedings is concerned it will no doubt be decided in the courts of law. But this point I would like to make. I have to proceed only on newspaper reports, but action appears to have been taken under section 3 of the Bengal Public Security Act and with reference to that I would just mention that the holding of this Congress is being conducted under the

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instructions of the Working Committee of the Congress and my Honourable friend, Mr. Anklesaria, will be glad to hear that the Working Committee of the Congress, though not the Congress itself, is an unlawful association.

**Mr. K. C. Neogy:** My Honourable friend, the Home Member, is a statesman who proceeds solely on facts, but in the narration of the general events which led up to Government action in this matter, I missed one particular fact which should have found some mention. I am glad to note that my Honourable friend cares to read newspapers, but if he had read the newspapers of this morning carefully he would have found what the Home Member in the Government of Bengal had to say with regard to this matter. I can quite understand the position which the Honourable Member has taken up that in view of the recent activities of the Congress themselves there was no assurance that the Congress would not indulge in unlawful pursuits at the Calcutta Congress and for that reason the Government action was justified, but if the Honourable Member had read what specific questions were asked in the Bengal Legislative Council, he would have found that there was no order prohibiting the holding of the Congress itself in Calcutta. I could have understood a position like that, that is to say, if the Government were convinced really that the Congress was going to indulge in unlawful activities, the Honourable Member might have some ground from the Government point of view to prohibit the session itself, but the position is otherwise. The question that was put in the Bengal Legislative Council was this:

“Has any order prohibiting the ensuing session of the Congress in Calcutta been issued?”

*Mr. Prentice:* No such order has been issued.”

In a later question, it was further asked:

“Would it be also correct to say that the holding of a session of the Congress itself is not an offence?”

*Home Member:* That is a matter of opinion.”

Therefore, Sir, the Honourable Member, when he assumed that the holding of the Congress itself was banned, was not on safe ground. As a matter of fact, the Government instead of taking the straightforward action of prohibiting the holding of a session of the Congress in Calcutta,—instead of that very straightforward action which one could have understood, took the very devious course of getting the men arrested at small hours in the morning at all the odd stations leading up to Calcutta. I do hope that the Honourable Member, by way of an interruption, would reply to this point as to how is it that the holding of the Congress itself in Calcutta was not prohibited. On the facts stated by him, that would have been a proper order from the Government point of view. The Working Committee, I understand, was declared an unlawful association but the holding of the session itself was not declared to be an unlawful object. How is it then that people were prevented from going to a meeting which had not been declared to be unlawful? Will the Honourable Member be pleased to reply to this point? I am giving way in his favour.

**The Honourable Sir Harry Haig:** The Honourable Member is very anxious that I shall make a second speech. The point is that the Government have announced their intention of not permitting the session of the Congress to be held. Whether for that purpose it is desirable to issue an order such as my Honourable friend wishes them to issue presumably under the Criminal Procedure Code or whether they should take other action such as they have taken, which leads to the same result, seems to me to be a matter that might reasonably be left to the discretion of the Government.

**Mr. K. C. Neogy:** Sir, my Honourable friend's conception of the Congress seems to be a kind of an advisory committee attached perhaps to the Department of Public Information. If that be my Honourable friend's conception of the Congress, I am sure that he would not find even Mr. Anklesaria prepared to support this idea. Sir, our differences with the Congress may be great. They are great, but I tell my Honourable friend that there would be very few people found in this country who would support Government in their attempt to humiliate and persecute the Congress in the most unwarranted manner that they are doing at the present moment.

**Several Honourable Members:** The question be now put.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That the question be now put."

The motion was adopted.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, 6 P.M. order. The question is:

"That the House do now adjourn."

The Assembly divided:

AYES—30.

Abdul Matin Chaudhury, Mr.  
Abdur Rahim, Sir.  
Azhar Ali, Mr. Muhammad.  
Biswas, Mr. C. C.  
Das, Mr. B.  
Dutt, Mr. Amar Nath.  
Gour, Sir Hari Singh.  
Gunjal, Mr. N. R.  
Jadhav, Mr. B. V.  
Jog, Mr. S. G.  
Joshi, Mr. N. M.  
Kvaw Myint, U.  
Lahiri Chaudhury, Mr. D. K.  
Lalchand Navalrai, Mr.  
Liladhar Chaudhury, Seth.  
Mitra, Mr. S. C.

Murtuza Saheb Bahadur, Maulvi  
Sayyid.  
Neogy, Mr. K. C.  
Parma Nand, Bhai.  
Patil, Rao Bahadur B. L.  
Ranga Iyer, Mr. C. S.  
Reddi, Mr. T. N. Ramakrishna.  
Roy, Kumar G. R.  
Sant Singh, Sardar.  
Sarda, Diwan Bahadur Harbilas.  
Sen, Mr. S. C.  
Sen, Pandit Satyendra Nath.  
Singh, Kumar Gupteshwar Prasad.  
Singh, Mr. Gaya Prasad.  
Uppi Saheb Bahadur, Mr.



## NOES—49.

Abdul Hye, Khan Bahadur Abul  
 Hasnat Muhammad.  
 Acott, Mr. A. S. V.  
 Ahmad Nawaz Khan, Major Nawab.  
 Allah Baksh Khan Tiwana, Khan  
 Bahadur Malik.  
 Amir Hussain, Khan Bahadur Saiyid.  
 Anklesaria, Mr. N. N.  
 Anwar-ul-Azim, Mr. Muhammad.  
 Bajpai, Mr. G. S.  
 Bhore, The Honourable Sir Joseph.  
 Clow, Mr. A. G.  
 Dalal, Dr. R. D.  
 DeSouza, Dr. F. X.  
 Dutt, Mr. G. S.  
 Dutt, Mr. P. C.  
 Fox, Mr. H. B.  
 Ghuznavi, Mr. A. H.  
 Gwynne, Mr. C. W.  
 Haig, The Honourable Sir Harry.  
 Hezlett, Mr. J.  
 Hudson, Sir Leslie.  
 Ismail Ali Khan, Kunwar Hajee.  
 James, Mr. F. E.  
 Jawahar Singh, Sardar Bahadur  
 Sardar.  
 Leach, Mr. A. G.  
 Mackenzie, Mr. R. T. H.

Megaw, Major General Sir John.  
 Metcalfe, Mr. H. A. F.  
 Millar, Mr. E. S.  
 Mitchell, Mr. D. G.  
 Mitter, The Honourable Sir  
 Brojendra.  
 Morgan, Mr. G.  
 Mujumdar, Sardar G. N.  
 Mukherjee, Rai Bahadur S. C.  
 Noyce, The Honourable Sir Frank.  
 Pandit, Rao Bahadur S. R.  
 Rafiuddin Ahmad, Khan Bahadur  
 Maulvi.  
 Raisman, Mr. A.  
 Rau, Mr. P. R.  
 Ryan, Sir Thomas.  
 Schuster, The Honourable Sir  
 George.  
 Scott, Mr. J. Ramsay.  
 Seaman, Mr. C. K.  
 Sher Muhammad Khan Gakhar,  
 Captain.  
 Singh, Mr. Pradyumna Prashad.  
 Smith, Mr. R.  
 Tottenham, Mr. G. R. F.  
 Vachha, Khan Bahadur J. B.  
 Yakub, Sir Muhammad.  
 Yamin Khan, Mr. Muhammad.

The motion was negatived.

The Assembly then adjourned till Eleven of the Clock on Monday, the 3rd April, 1938.

## LEGISLATIVE ASSEMBLY.

*Monday, 3rd April, 1933.*

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) in the Chair.

### QUESTIONS AND ANSWERS.

#### REPRESENTATION OF CANTONMENTS IN THE LEGISLATIVE ASSEMBLY.

**1109. \*Khan Bahadur Haji Wajihuddin:** (a) Are Government aware that the cantonments of India have consistently pressed their claim for additional representation in the Assembly?

(b) Is it a fact that this claim has been based upon the following reasons:

- (i) that the cantonment law is materially different from the ordinary municipal law and has still many drastic provisions affecting the liberties and civic rights of the cantonments people;
- (ii) that the cantonment administration is a Central subject and that discussion about the same and the changes in the cantonment law can be moved only in the Assembly;
- (iii) that under the existing system of elections, in which small groups of cantonments are included in large general constituencies of different Provinces, with the cantonments' votes as a mere fraction of the total votes of the constituency, there is very little chance for the cantonments people to send their own chosen representative to the Assembly, through election;
- (iv) that the civil population of the cantonments comes to about a million and is large enough to press their claim for adequate representation in the Assembly;
- (v) that the interests of the cantonments people have suffered grievously in the past for want of effective and adequate representation in the Assembly?

(c) What action have Government taken in the matter? Have they made or do they propose to make any representation in this matter to the authorities who are now engaged in the framing of the future constitution of India? If not, why not?

**Mr. D. G. Mitchell:** (a) and (b). Representations on the subject, citing the grounds mentioned in part (b), have, from time to time, been received by the Government of India.

(c) Government informed the memorialists on more than one occasion that in the event of no person with special knowledge of cantonment conditions being elected to the Legislative Assembly at a general election, the question of nominating such person would receive consideration. Such person or persons having always been elected, no further action was taken. Government have no doubt that in the future, as in the past, cantonment interests will secure adequate representation in the Central Legislature, and they have, therefore, submitted no proposals in the matter, nor do they propose to do so. I would point out that residents in cantonments have had and still have abundant opportunity of addressing representations to the authorities from time to time engaged in the formulation of proposals for the new constitution.

**Dr. Ziauddin Ahmad:** May I ask what conveniences were provided in the past as regards the representation of these cantonments in the Central Legislature?

**Mr. D. G. Mitchell:** The convenience that has been provided for in that past is explained in my answer, namely, that it has always happened that one or two Members of the Central Legislature have been residents in cantonments.

**Dr. Ziauddin Ahmad:** Was it only an accident that they happened to be residing in cantonments or did the Government nominate them?

**Mr. D. G. Mitchell:** I think the Honourable Member's knowledge of mathematics will convince him that on the theory of probabilities residents of cantonments will always have a Member on the Central Legislature.

**Dr. Ziauddin Ahmad:** I think it is very doubtful all the same, because the number of cantonments is so small. It is very doubtful we will always have a representative of the cantonments in the Assembly. Besides, the interests of cantonments cannot be safeguarded simply because of this off-chance of representation.

**Mr. D. G. Mitchell:** The persons from cantonments who make this representation claim that residents in cantonments number one million.

**Sir Muhammad Yakub:** What are the special interests of the residents of these cantonments besides those of the general people of India?

**Mr. D. G. Mitchell:** I think that question should be addressed to the Honourable Member who has asked the original question.

#### GRANT OF MONEY FOR THE REPAIRS TO THE TOMBS OF THE MEMBERS OF THE FAMILY OF HYDER ALI AND TIPU SULTAN.

1110. **Sir Abdulla-al-Mámin Suhrawardy:** (a) Are Government aware that a sum of Rs. 500 per mensem originally sanctioned by the Court of Directors on the representation of His Highness the late Prince Gholam Mohammad, K.C.S.I., son of Tipu Sultan, for *Fateha* expenses, preservation of tombs of the sons of Tipu Sultan and for the maintenance of the cemetery in Tollygunge (Calcutta) in which the members of the family

of Hyder Ali and Tipu Sultan lie buried and which was purchased by Government for such purposes, has been stopped since May, 1913, on the death of the last stipendiary under the capitalization scheme of 1860? Was it to be a *permanent grant* and described as such in the Parliamentary Paper of 1863 under the heading: "Circumstances of Original Grant *re* Fateha Allowance (Permanent Grant)" page 10?

(b) Are Government aware that in 1859 when His Highness the late Prince Gholam Mohammad and his son the late Prince Feroze Shah were in England and a scheme for the permanent provision for the family of Hyder Ali and Tipu Sultan was under contemplation before the Committee of the Council of the Secretary of State appointed by Sir Charles Wood, the then Secretary of State for India, His Highness the Prince Gholam Mohammad and the said Prince Feroze Shah submitted a Memorandum briefly stating a few observations in order to place the entire case of the Mysore Family before the said Committee and in the said memorandum which is included in the return to the address of the Honourable the House of Commons, dated the 12th February, 1861, and issued as Parliamentary Paper in pages 108 to 111 it was laid down in paragraph 11 that the scheme for permanent arrangements was not to affect in any way the allowances then granted for Fateha and other religious ceremonies, lighting of the cemetery, repairing of the tombs and graves and keeping them in good order, medical and school expenses which were to be carried out as heretofore? Is it a fact that in the Political Despatch No. 50-P., dated the 11th June, 1860, a scheme was framed to place upon a revised and permanent footing the general arrangements for the maintenance of the Mysore family, and the Right Honourable Sir Charles Wood in paragraph 13 of the said despatch stated clearly to accord generally to the family such privileges as they had hitherto enjoyed and such friendly protection and consideration as their respectability and unquestioned loyalty entitled them to receive at the hands of the British Government? Are Government prepared to restore in perpetuity the original grant for the maintenance of the cemetery and for the preservation of the Princes' tombs or capitalize a sum yielding such income as is done in the case of the Nizamat family of Murshidabad and the Moghul family of Benares?

(c) Are Government aware that the preservation of the tombs of the ancestors is considered by the Mussalmans of India to be a religious duty?

(d) Do Government propose to sanction an adequate sum for the necessary repairs to the Princes' tombs and Mosque of the Cemetery originally built at Government cost and now in a dilapidated state?

**Mr. H. A. F. Metcalfe:** With your permission, Sir, I will answer questions Nos. 1110—1112 together. The information is being collected and will be laid on the table in due course.

#### **PAYMENT OF STIPENDS TO THE MEMBERS OF THE FAMILY OF HYDER ALI AND TIPU SULTAN.**

†1111.\***Sir Abdulla-al-Mámūn Suhrawardy:** (a) Are Government aware that the Secretary of State for India in his Despatch No. 50-P. of 1860, dated the 11th June, sanctioned Rs. 15,000 and Rs. 5,000 to each of the grandsons and great grandsons respectively, for providing a permanent

†For answer to this question, see answer to question No. 1110.

residence in some other locality and like amounts to each of the grandsons and great grandsons with a view to their relief from present embarrassment and with a view to meet those expenditures only the Secretary of State sanctioned Rs. 8,30,000?

(b) Will Government be pleased to state that out of 21 grandsons and 14 great grandsons who were then living and allowed to participate in the scheme, how many grandsons and great grandsons took the house money and how many took the relief money and what is the total amount which had lapsed to the Government?

(c) Are Government prepared to sanction payment of the lapsed amount for the benefit of the heirs of those who did not draw the house allowance, and place it at the disposal of a Committee of the Mysore Family Association to be utilised for providing residences for those who have become homeless and stranded in life due to the failure of the capitalization scheme and to pay stipends to the future indigent members of the Mysore family?

**BALANCE OF THE APPROPRIATED MYSORE DEPOSIT FUND ON ACCOUNT OF THE FAMILIES OF HYDER ALI AND TIPU SULTAN.**

†1112. \*Sir Abdulla-al-Māmūn Suhrawardy: (a) Will Government be pleased to state what was the balance of the Appropriated Mysore Deposit Fund on account of the families of Hyder Ali and Tipu Sultan in the year 1855-56 when, by order of Government, it ceased to form a separate item of account?

(b) Have Government considered the desirability of making the surplus or savings of the said Appropriated Mysore Deposit Fund available for the benefit of the family of Hyder Ali and Tipu Sultan or for purchasing a perpetual inalienable jagir and placed under the management of the Court of Wards for the maintenance of the members of the family?

(c) Are Government aware that the Honourable the Court of Directors addressed an important Political Despatch No. 1, dated 2nd January, 1857, to the Government of India stating that it would not be in accordance with that just and liberal policy which should actuate our proceedings towards the families of the deposed Princes of India to allow considerations either of financial expediency or of social economy to induce us to make such sudden changes in an existing system as could not fail to be attended with suffering and possible degradation to those who have hitherto been entirely dependent on our Government support and it was also stated in the said despatch that *the claims of the legitimate descendants of Hyder Ali and Tipu Sultan could not equitably be ignored and a principle was established that beyond the fourth generation members of the family must expect only such assistance from the British Government as might appear to be called for on a full consideration of circumstances on each individual case?* Are Government aware that in the said despatch certain resolutions of the Government of India were duly approved relating to the grant of stipends to the Mysore Princes and certain rules were also framed for the guidance of the same in accordance of which *the great grandsons and the great grand daughters were to receive a sum of rupees 200 and rupees 100 each per mensem, respectively?*

† For answer to this question, see answer to question No. 1110.

**RETRENCHMENT OF MILITARY SUB-ASSISTANT SURGEONS.**

**1113. \*Mr. M. Maswood Ahmad:** (a) Is it a fact that about eighty Military Sub-Assistant Surgeons have already been retrenched and that about eighty more are soon going to be retrenched?

(b) Will Government please state on what principle the retrenchment of Military Sub-Assistant Surgeons is made?

(c) Is it a fact that many young men have been retrenched in preference to many old persons who were recruited before 1900?

(d) Is it a fact that in the first instance it was decided to retrench those who have completed 25 years' service, but afterwards this decision was reversed?

(e) Will Government state what was the special necessity for discharging these young men?

(f) Is it also a fact that it is the declared policy of Government to first discharge those persons who are nearing the age of superannuation and that this principle was applied to persons in other Departments of the Government? If so, why was the departure from that policy made in the case of Military Sub-Assistant Surgeons?

(g) Are Government prepared to follow the principle of giving preference to those who are nearing the age of superannuation while making further retrenchment in the number of Military Sub-Assistant Surgeons? If not, why not?

(h) Are Government aware of the hardships of the retrenched junior Military Sub-Assistant Surgeons? If so, are they prepared to re-engage them whenever there is a vacancy in that cadre?

**Mr. G. R. F. Tottenham:** (a) 122 Sub-Assistant Surgeons have been retrenched. No further retrenchment is contemplated.

(b) and (e). Volunteers for retrenchment were first called for; those Sub-Assistant Surgeons whose retention in the service was considered least desirable were then selected for discharge.

(c) No, Sir.

(d) No.

(f) No, Sir. The principles followed in the selection of personnel for retrenchment are explained in the reply given on the 17th February, 1932, by the Honourable the Finance Member to Mr. Lalchand Navalrai's starred question No. 409.

(g) Does not arise in view of my answer to part (a) of the question.

(h) The Honourable Member is referred to the answer which I gave on the 21st November, 1932, to part (b) of Mr. B. N. Misra's starred question No. 1303.

**PROSECUTION OF SARDAR DIWAN SINGH MAFTOON BY THE BHOPAL STATE.**

**1114. \*Mr. B. Das:** (a) With reference to questions Nos. 232 and 233 of Dr. B. S. Moonje, on the 5th February, 1930, regarding the application of the Indian States (Protection against Disaffection) Act of 1922, will Government be pleased to state if they have since permitted the Bhopal Durbar to prosecute Sardar Diwan Singh Maftoon, Editor, *Riyasat*, in a similar case in another Court?

(b) Will Government be pleased to state if the two cases against Sardar Diwan Singh were not sanctioned on similar grounds for alleged violation of law?

**Mr. H. A. F. Metcalfe:** (a) No.

(b) Does not arise.

**PROSECUTION OF SARDAR DIWAN SINGH MAFTOON BY THE BHOPAL STATE.**

1115. **\*Mr. B. Das:** (a) Will Government be pleased to state if they sanctioned the Bhopal Durbar to file a suit against Sardar Diwan Singh Maftoon, Editor, *Riyasat*, in a Delhi Court?

(b) Is it a fact that five months before the case was filed against Sardar Diwan Singh, the Bhopal Durbar filed a complaint for the same offence against one Azfar Hussain and in that complaint no mention was made of Sardar Diwan Singh?

(c) Has the attention of Government been drawn to the judgment of Mr. Isar, Additional District Magistrate, Delhi, dated the 5th September, 1932, whereby Sardar Diwan Singh was acquitted and the judgment recorded:

“Such are the prosecution witnesses and such is their evidence and it seems to me if there was any conspiracy in this case it was on the part of the Bhopal Police the object being to incriminate Diwan Singh and to cripple the *Riyasat*.”

(d) Are Government aware that Mr. Isar's judgment has been upheld recently by the Lahore High Court?

**Mr. H. A. F. Metcalfe:** (a) No.

(b) Government have no information.

(c) Government have seen the judgment referred to.

(d) Yes.

**Sardar Sant Singh:** May I know if the Bhopal Police carried on the investigation in Delhi, within the British territory, with the knowledge or without the knowledge of the British Police at Delhi?

**Mr. H. A. F. Metcalfe:** I have no information on that point, Sir, and I am unable to answer the question.

**Sardar Sant Singh:** Will the Honourable Member be pleased to collect information in this respect especially in view of the fact that even the police of a different district cannot carry on an investigation in another district without the co-operation and knowledge of the local police officials?

**Mr. H. A. F. Metcalfe:** I think that a separate question on this point has already been put down on the paper to be answered subsequently. It is not a matter which really concerns the Foreign and Political Department. It is one of internal police administration in British India.

**Mr. Gaya Prasad Singh:** Is it in contemplation to give compensation to Sardar Diwan Singh for having been falsely implicated in this case?

**Mr. H. A. F. Metcalfe:** That, Sir, appears to be a matter for Sardar Diwan Singh to deal with, not for me.

**Mr. B. Das:** With reference to reply to part (c) of the question, is it not a fact that the Honourable Member's Department gave sanction to the Bhopal Durbar to prosecute Sardar Diwan Singh and is it not also based on a similar fact as is contained here, namely, the crippling of the *Riyasat*?

**Mr. H. A. F. Metcalfe:** I believe not. But, I should like to have a notice of that question if the Honourable Member wants a complete reply to it.

**Mr. O. S. Ranga Iyer:** May I ask the Honourable Member what protection do the Government propose to give against the conspiracies of certain Princes to cripple newspapers in British India?

**Mr. H. A. F. Metcalfe:** I am not prepared to admit that there has been any conspiracy in this case. The question, therefore, does not arise.

**Mr. O. S. Ranga Iyer:** Have Government really given serious consideration to the nature of the prosecution witnesses and their evidence? It seems to me that if there is any conspiracy in this case, it was on the part of the Bhopal Police, the object being to incriminate Sardar Diwan Singh and to cripple the *Riyasat*. Will Government be prepared to investigate the matter and place the facts before this House?

**Mr. H. A. F. Metcalfe:** That opinion has been expressed by the Court, but I do not think we need necessarily investigate the matter. At any rate it is a matter rather for the Home Department than the Foreign and Political Department.

**Mr. O. S. Ranga Iyer:** Is it not a matter of sufficient importance for the Government, when the Court has expressed itself in that manner, to investigate the matter in the interests of the liberty of the Press?

**Mr. H. A. F. Metcalfe:** I think the Honourable Member is asking for an expression of opinion which I am not prepared to give.

**Mr. O. S. Ranga Iyer:** What steps do Government propose to take in the light of the revelation made by the Court in regard to the protection of the liberty of the Press?

**Mr. H. A. F. Metcalfe:** So far as I know, Government are taking no steps. but I must ask for notice of a question of that importance.

**Mr. O. S. Ranga Iyer:** Will Government be pleased to state why they are not taking any steps?

**Mr. H. A. F. Metcalfe:** So far as I know, the question has not yet been considered. In any case, as I said before, I must ask for notice if the Honourable Member wants to know what steps the Government are going to take and why they have not taken any steps.

**Mr. O. S. Ranga Iyer:** Will Government be pleased to consider the advisability of considering this matter?



**Mr. H. A. F. Metcalfe:** Certainly, Sir, and that is why I have asked for notice of this question.

**Sardar Sant Singh:** May I ask the Honourable Member if it is a fact that the acquittal has been upheld by the High Court of Lahore?

**Mr. H. A. F. Metcalfe:** I have already answered part (d) of the question.

**Sardar Sant Singh:** What is the policy of the Government in such cases when, after due deliberation of the facts, they sanction the prosecution of a particular newspaper and at the end find that that sanction was either wrongly given or not given on good facts? What steps do Government propose to take to look into the matter and to give compensation or to adopt a future policy in such matters?

**Mr. H. A. F. Metcalfe:** As I have already said, I am not prepared to make a statement of policy in reply to supplementary questions.

**Sardar Sant Singh:** Am I to understand that such sanctions are given by the Government in a very light-hearted manner?

**Mr. H. A. F. Metcalfe:** As I have already said, no sanction was given by the Government in this case. It was purely a private prosecution undertaken under the Indian Penal Code by the Durbar.

**Mr. Muhammad Muazzam Sahib Bahadur:** Is it not a fact that Sardar Diwan Singh can have his remedy in one of the Civil Courts?

**Mr. H. A. F. Metcalfe:** As I have, I think, already said, if Sardar Diwan Singh wants a remedy, he can obtain it under the ordinary law.

**GRIEVANCES OF MUSLIM CLERKS OF THE PRODUCTION LOCOMOTIVE WORKSHOP STAFF, MOGALPURA, NORTH WESTERN RAILWAY.**

1116. **\*Mr. M. Maswood Ahmad:** (a) Is it a fact that 11 Muslim clerks of the Production Locomotive Workshop Staff, Mogalpura, submitted a memorial to the Superintendent, Mechanical Workshops, North Western Railway, Mogalpura, on the 10th December, 1932?

(b) Has the Agent, North Western Railway, received a copy of the memorial?

(c) Have Government received a copy of the memorial?

(d) Will Government be pleased to lay on the table a copy of the memorial?

(e) Will Government be pleased to state whether the allegations made and facts mentioned in the memorial were substantially correct?

(f) What action has been taken by the immediate officer, and what orders have been passed on the memorial?

(g) Are Government aware that all the eleven Muslim clerks are harassed for submitting the memorial?

**Mr. P. R. Rau:** With your permission, Sir, I propose to reply to questions Nos. 1116 and 1117 together. Government have no information. A copy of the question has been sent to the Agent, North Western Railway, who is competent to deal with the allegations made in it, for such action as he may consider necessary.

**GRIEVANCES OF MUSLIM CLERKS OF THE PRODUCTION LOCOMOTIVE WORKSHOP STAFF, MOGALPURA, NORTH WESTERN RAILWAY.**

†1117. **\*Mr. M. Maswood Ahmad:** (a) Is it a fact that 11 Muslim clerks of the Production Locomotive Workshop, Mogalpurā, North Western Railway, in a memorial to the Superintendent, Mechanical Workshop, North Western Railway, Mogalpurā, on the 10th December, requested for an independent enquiry into the favouritism done to the Hindu community and the discriminatory action done to Muslim community?

(b) Is it a fact that no enquiry was ordered but the memorial was given to Mr. S. D. Khanna, labour warden, Loco., and Mr. Gurbaksh Singh, clerk of efficiency section, against whom the memorial was submitted?

(c) Will Government be pleased to state whether any European officer was not available to make an independent enquiry into the matter?

(d) Are Government aware that all the Muslim clerks are ready to prove the allegations, but that no enquiry is being held?

**NEW RULES FOR ALLOTMENT OF QUARTERS IN NEW DELHI.**

1118. **\*Pandit Satyendra Nath Sen:** (a) Will Government please refer to the new rules regarding the allotment of residences in New Delhi to officers whose emoluments are less than Rs. 600 p. m. as published at pages 64—75 of the Gazette of India, January 28, 1933?

(b) Is it a fact that unmarried officers with or without dependants have been debarred from getting any quarters?

(c) Is it a fact that hitherto no distinction has been made between married and unmarried officers in respect of allotment of quarters and many unmarried officers have acquired liens on quarters?

(d) Do Government make any distinction between married and unmarried officers in respect of pay and allowances and other conditions of service, and do they propose to make such distinction in future?

(e) Why has no such distinction been made in respect of officers drawing pay more than Rs. 600 p. m.?

(f) Is it a fact that the rent for the Chummery rooms which are proposed to be allotted to the unmarried officers is the same as those of the married officers' quarters? Is it a fact that the accommodation in the Chummery is much less than that in married officers' quarters?

(g) Are Government aware that in the case of Indians the term family is not always limited to wife and children alone, but consists of other dependants as well?

(h) How many times have changes been made in these rules since the quarters were built?

†For answer to this question, see answer to question No. 1116.

(i) Is it not the policy of the Government to secure the accrued rights and privileges of officials when any change is made in any rules? If so, are Government prepared to see that those unmarried officers who have been occupying quarters are allowed to continue to occupy quarters?

**The Honourable Sir Frank Noyce:** (a) Certainly.

(b) Unmarried male clerks are eligible for quarters in chummeries. They are eligible for married quarters only if any remain unallotted after satisfying the claims of married clerks.

(c) Under the old rules, married clerks and single clerks with dependants received preference over other single clerks.

(d) Distinctions are made between married and unmarried officers in the case of certain allowances, e.g., the Simla and the Delhi House Allowances.

(e) The distinction made in the Simla House Allowance applies also to officers drawing over Rs. 600 per month.

(f) The rent for rooms in the orthodox chummeries is less than that for orthodox married quarters. The reply to the latter part of the question is in the affirmative.

(g) Yes.

(h) Three times.

(i) The rights and privileges of officers in regard to residences are governed by the rules in force for the time being, and Government adhere to their decision that generally married clerks have a better claim to married quarters than single clerks with dependants.

**Pandit Satyendra Nath Sen:** Is it the policy of Government to discourage celibacy? Otherwise why this differential treatment?

(No answer was given.)

**Pandit Satyendra Nath Sen:** Why are these unmarried officers required to pay the same rent for lesser accommodation in the Chummeries?

**The Honourable Sir Frank Noyce:** They are not. I said that the rent of rooms in the orthodox Chummeries is less than that for orthodox married quarters.

#### CASUALTIES DUE TO RASH DRIVING IN NEW DELHI AND DELHI CITY.

1119. **\*Mr. Muhammad Muazzam Sahib Bahadur:** (a) Will Government be pleased to state the number of casualties in New Delhi and Delhi City in the years 1930, 1931 and 1932? How many of them were due to rash driving?

(b) Have there been any cases of rash driving as such which have been prosecuted during the above mentioned years and which have not been attended with untoward results?

(c) Is it a fact that traffic control in the areas pointed out is much below the standard attained in Presidency towns? If so, do Government consider it advisable to have the local traffic police trained at Calcutta or Bombay to make them more efficient?

(d) Is it a fact that in the enlistment of constables, the inhabitants of Delhi are, as a rule, avoided? If so, why?

**The Honourable Sir Harry Haig:** (a) and (b). The number of accidents involving deaths or injuries in New Delhi and Delhi City during the three years in question were:

	Deaths.	Injuries.
1930 . . . . .	27	197
1931 . . . . .	22	245
1932 . . . . .	17	231

Figures regarding casualties from rash driving and those regarding prosecutions for such driving have been called for from the Chief Commissioner. Delhi, and will be laid on the table when received.

(c) Government do not consider that the standard of traffic control in Delhi is defective, except in so far as it is hampered by the small numbers of the sanctioned staff. They do not consider it necessary to have the Delhi Traffic Police trained at Calcutta or Bombay.

(d) The enlistment of constables in Delhi is governed by the Punjab Police Rules which lay down that "recruits shall be of good character and shall, as far as possible, be selected from agricultural classes and castes". Out of 1,535 constables sanctioned for duty in the Delhi Province, 342 are residents of the Delhi Province. Residents of Delhi itself are usually not enlisted, because the greater part of a constable's service is spent at headquarters and experience has shown that constables do not usually make efficient officers when posted in their home jurisdictions.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): I have received a representation signed by the Hindu Members of the House, and it has been further represented to me that the requisition has the signature of almost every Hindu Member present here in the Assembly. In that representation my attention has been drawn to the fact that tomorrow is *Ram Navami* which is a very important Hindu festival, and, under those circumstances, I have directed that the House will not sit tomorrow.

#### STATEMENTS LAID ON THE TABLE.

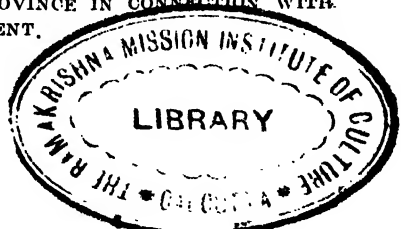
**The Honourable Sir Harry Haig** (Home Member): Sir, I lay on the table the information promised in reply to starred question No. 715, asked by Mr. M. Maswood Ahmad, on the 13th March, 1933.

#### CONVICTIONS IN THE NORTH-WEST FRONTIER PROVINCE IN CONNECTION WITH THE RED SHIRT MOVEMENT.

\*715. (a) 1,227.

(b) 2.

(c) A, 3; B, 43.



**Sir Thomas Ryan** (Director General of Posts and Telegraphs): Sir, I lay on the table the information promised in reply to starred question No. 666, asked by Bhai Parma Nand, on the 7th March, 1933.

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APPEALS PREFERRED TO THE POST MASTER GENERAL, PUNJAB, AND NORTH-WEST FRONTIER CIRCLE, BY THE HINDU AND SIKH POSTAL OFFICIALS AGAINST THE ORDERS OF THE SUPERINTENDENT OF POST OFFICES, MUZAFFARGARH DIVISION.

\*666. The number is twelve. In the majority of the cases the appeals were admitted either wholly or in part. The Postmaster General has already taken sufficient notice of the matter.

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### THE INDIAN TARIFF (OTTAWA TRADE AGREEMENT) SUPPLEMENTARY AMENDMENT BILL.

**The Honourable Sir Joseph Bhore** (Member for Commerce and Railways): Sir, I move:

"That the Bill to supplement the Indian Tariff (Ottawa Trade Agreement) Amendment Act, 1932, be taken into consideration."

I tried to the best of my ability, Sir, to be as detailed and explicit as I could in the Statement of Objects and Reasons to enable Honourable Members at their convenience to examine the various items and to satisfy themselves as to the correctness of the statement that the object of this Bill is to remove inaccuracies, ambiguities, anomalies and mistakes which have been brought to light as a result of experience of the new tariffs. As I have stated, I have endeavoured to deal very fully with the separate items, and it is perhaps unnecessary for me to waste the time of the House going over those items at any length. But I think I ought to explain generally the character of the alterations which we are proposing to make in this amending Bill.

Now, Sir, one class of cases consists of corrections of palpable errors and anomalies. An instance of that is the case of ferrous sulphate. Ferrous sulphate was one of the items definitely excluded from preference, and we thereupon entered ferrous sulphate in part 5 of Schedule II, namely, among the articles which are dutiable at the ordinary revenue duty. But, unfortunately, Sir, we overlooked the fact that ferrous sulphate is only another name for green copperas, and green copperas has always been entered in part 3 of Schedule II and is dutiable at a very much lower rate. What we have, therefore, been forced to do is to remove ferrous sulphate from part 5 and put it with green copperas so that the two may now become dutiable at the same rate of duty.

Another class consists of items to which preference was never intended to be given, but to which preference has resulted as a consequence of the entries which have been made in the various Schedules. An example of that is the case of moist white lead. In the Trade Agreement, certain painters' materials were definitely excluded from preference. Now, we entered white lead under a head which would definitely exclude it from preference, but we omitted specific reference to moist white lead which is a painters' material. We are now putting moist white lead by the side of white lead so that it will now become dutiable under the ordinary non-preferential rates.

Then, Sir, another class consists of cases in which changes are made to clarify the position and to remove ambiguities. I take as an instance the case of tea chests and parts and fittings thereof. It was never intended, of course, to give preference to this article. I should make it clear that this particular article, though it appears in our trade returns, is not specifically shown in our Tariff Schedule, and unless a specific entry is made in respect thereof, it might be treated as falling under another heading which might perhaps give it preference. We are, therefore, now specifically entering this item "Tea Chests, parts and fittings thereof" in order firstly to make it perfectly clear that parts and fittings of tea chests are to be treated as tea chests themselves and that these come under the ordinary non-preferential rate.

Then, Sir, there is the case of liquid gold and glass crucibles. This falls in a category by itself. Those Members of this House who were Members of the Select Committee will remember that certain Members laid very great stress upon the necessity of not raising the duty in respect of the materials for glass-making. I think we gave the assurance to my Honourable friends, Mr. Mitra and Mr. Sitaramaraju, that we would endeavour to see that the 10 per cent. preference was given entirely by lowering the duty and not partly raising it and partly lowering it. We adopted that policy in regard to other materials for glass-making, but we were not then in a position to do the same in respect of liquid gold and glass crucibles, because we were not then sure whether it was possible from the customs point of view to distinguish these articles. We now find that it is, and we are, therefore, making an entry giving the whole preference in a downward direction. I do not propose to go individually into each item. They have all been dealt with in the Statement of Objects and Reasons, as I have said already, at some length, but I have merely made this general statement to indicate the intention lying behind this amending Bill.

Sir, I move.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty).  
The question is:

"That the Bill to supplement the Indian Tariff (Ottawa Trade Agreement) Amendment Act, 1932, be taken into consideration."

The motion was adopted.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty):  
The question is that the Schedule do stand part of the Bill. Mr. Raisman.

**Mr. A. Raisman** (Government of India: Nominated Official): Sir, I move:

"That in the Schedule to the Bill, for the proposed amendment No. 2, the following be substituted:

'2. In Item No. 88, for the words 'ferrous sulphate', the words and brackets 'alum (namely, potash alum, soda alum and ammonia alum)' shall be substituted'."

Sir, the proposal to omit ferrous sulphate from item 88 is already fully explained in the Statement of Objects and Reasons attached to the Bill. The present amendment seeks to add "Alum" to Item No. 88. Now, alum is one of the chemicals on which protective duties were imposed by the

[Mr. A. Raisman.]

Heavy Chemical Industry (Protection) Act, which was passed in September, 1931. Section 3 of that Act provided that these duties, with the exception of the duty on Magnesium Chloride, would have effect only up to the 31st March, 1933. These protective duties have, therefore, now lapsed and the chemicals in question have become liable to the ordinary revenue duties and will resume their places in the Import Tariff Schedule in the items under which they can normally be classified.

Now, Sir, some of these items fall in that part of Schedule II to the Tariff Act which contains the items in respect of which there is a preference in favour of the United Kingdom and the British Colonies. Other items, again, fall in the non-preferential Part of that Schedule. It, therefore, became necessary to examine and see whether the results obtained by the inclusion of these chemicals in non-protective items of the Tariff Schedule were in accordance with the Ottawa Trade Agreement. This examination has been carried out and it has been found that, in the case of all the chemicals except alum, this requirement is satisfied. Alum, however, in the ordinary course falls under Item No 181, which reads:

"Chemicals, drugs and medicines, all sorts not otherwise specified".

This item is in the preferential Part of the Tariff Schedule. But, under the Ottawa Trade Agreement, alum along with certain other chemicals was specifically excluded from preference. We have, therefore, to take special action to remove alum from the preferential Part of the Tariff Schedule in order to avoid giving in respect of it a preference that was not asked for and was not intended. This, Sir, is the object of the present revised amendment.

Sir, I move.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That in the Schedule to the Bill, for the proposed amendment No. 2, the following be substituted:

'2. In Item No. 88, for the words 'ferrous sulphate', the words and brackets 'alum (namely, potash alum, soda alum and ammonia alum)' shall be substituted'."

The motion was adopted.

**Mr. F. E. James** (Madras: European): Sir, I beg to move:

"That in the Schedule to the Bill, for the proposed amendment No. 7, the following be substituted:

'7. After Item No. 58-A, the following shall be inserted, namely:

'58-B. Tea Chests and parts and fittings thereof'."

Sir, I am aware that the object of this Bill is to remove intended preference. My object is to take advantage of this proposal; first of all, to call attention to the recent abolition of the drawback on imported tea chests which was enjoyed by the industry in South India till last September and, secondly, to call attention to the need for a reduction of the surcharge on this essential article to one of India's main exports. The proposal in the Bill is that this item should be included in Part V of the Import Schedule specifically, thus making them subject to the ordinarily known preferential rates of duty of 15 per cent. *plus* five per cent. surcharge, *plus* an additional five per cent surcharge making the total duty of 25 per cent. The effect of

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my amendment would be to place this item in Part IV instead of in Part V of the Schedule, immediately after Item 58A. Its effect would be to subject tea chests to a basic duty of 10 per cent. on which there is a surcharge of  $2\frac{1}{4}$  per cent., and a further surcharge of  $3\frac{1}{4}$  per cent. making a total duty including surcharges of  $15\frac{1}{2}$  per cent. This would involve a reduction of nearly 10 per cent. in the duty which would be paid and has been paid hitherto.

I shall have to weary the House for a few minutes in describing what has taken place in regard to the removal of the drawback on tea chests. This drawback has been enjoyed for a long time by the interests in South India. We have always been aware that the customs authorities have taken the view that drawbacks should only be given in the case of what is described as the *entrepot* trade, and, as a result of that view, we have formed the impression that the customs authorities have not been willing to come to a satisfactory arrangement whereby to have machinery for the payment of drawbacks on panels and fittings from which tea chests are made which are imported into this country and re-exported with the tea inside. It has always seemed to us to be unfair that we should have to pay the duty on those articles which are so essential to an export trade. In other words, it is in effect a tax on one of India's chief exports. We enjoyed in South India this arrangement up to last September. In North India, owing to the difficulties which the customs authorities placed in the way of giving drawbacks, the tea interests have not enjoyed this privilege for many years; but in South India we have enjoyed this privilege and we were informed in June last that this privilege would be withdrawn as from the 1st of September. I made immediate representations to the Board of Revenue and they were good enough to extend the order by one month in order that the matter might be discussed. I represented the position, but unfortunately the Board of Revenue has a stony heart and my representations were of no avail and the drawback was withdrawn as from the 1st of October. Now, I should like to emphasise the fact that the tea interests have done everything in their power to meet the customs authorities. They have made special arrangements with regard to the identification of panels coming into this country, so that there should be no question of any benefit accruing to interests which do not in effect export these panels in the shape of chests. I may inform the Honourable the Commerce Member, in fact, that the machinery set up by the tea interests has cost a good deal of money. In the case of one company alone, the marking of panels cost Rs. 7,000 in one year. Therefore, I think I can claim that we have done everything in our power to meet whatever administrative difficulties the customs authorities might find in agreeing to a continuation of the drawback. As I have said, the customs authorities for some reasons or other held the view that it was undesirable to continue this particular privilege and the drawback was withdrawn from the 1st of October. In round figures, the withdrawal of this drawback has involved the tea industry at the present moment in South India in an additional burden on its costs of production of a little over one rupee an acre, at a time when owing to tremendous competition in the world's markets and owing to the low prices of tea it has been essential for the costs of production to be cut as low as possible. Now, Sir, my proposal which in effect reduces the duty paid on panels and fittings by a little less than 10 per cent. roughly works out at a saving to the industry of the rupee an acre



[Mr. F. E. James.]

which it loses by the withdrawal of the drawback, and I put it forward to the Honourable Member that this is a most reasonable suggestion. I am aware that my amendment may be opposed on the ground that the purpose of this Bill is merely to rectify a mistake which was made by this House in passing the original Tariff Bill under the Ottawa Agreement. But I want to put forward to the Honourable the Commerce Member a very strong plea for a consideration of this matter by one of two methods: I would point out to him that on the authority of the Finance Minister himself it is of the utmost importance that India's exports of tea *vis a vis* other tea producing countries should be encouraged as much as possible. I would remind him that the interests in Ceylon and Java do not have to pay this burden which is placed upon the tea producers in this country in regard to a heavy revenue *plus* a surcharge tariff on this essential part of their export trade. I am aware that there are in North India certain indigenous firms which are producing tea chests; but I would point out that they have not up to the present produced either in quantity or quality anything like what is required or the type of chest required for this industry; and whatever may be done in North India, we have found it quite impossible to secure supplies of that article in the South owing to freight charges, etc., at a cost which is comparable to the cost of importing these articles from abroad.

The two suggestions that I make to the Honourable the Commerce Member as to how he can help the industry are these: first of all, that he should consider the possibility of giving back the privilege that has been enjoyed of the drawback. I am aware that the customs authorities have regarded the difficulties so far as being insurmountable; but those who are in the industry do not believe that those difficulties are insurmountable. We have from time to time put forward to the customs authorities proposals which in our view if they had been carried out by the customs authorities, would have enabled a very easy machinery to have been set up whereby the identification of tea chests could have been achieved. As I have said, we have all along formed the impression that the customs authorities were determined to abolish this particular drawback. Therefore, my first suggestion is that the question of drawback be reopened, that the customs authorities hold a conference with the representatives of the tea industry for the definite purpose of devising some fairly easy machinery, which, I am convinced, is possible. Now, it may be argued against that proposal that the principle of drawback is not desirable and should be limited merely to *entrepot* trade. Of course one could refer to the drawback given on motor cars and on films both of which could hardly be regarded as cases of *entrepot* trade; but there is considerable force in that particular argument, and, therefore, my second suggestion is, if it is not possible to grant a reconsideration of the question of drawback, that the Honourable the Commerce Member, in consultation with the Honourable the Finance Member, should consider the abolition of the surcharges on tea chests, or tea panels used for tea chests which are imported into this country. We claim that the surcharges are at present a definite handicap to the industry in this country, an industry which is very important from the point of view of India's export trade, and I, therefore, wish to place before the Commerce Member a very strong plea for a sympathetic consideration of the matter and for an examination of the possibility of accepting one or other of my two suggestions.

**Dr. Ziauddin Ahmad** (United Provinces Southern Divisions: Muhammadan Rural): May I ask the Honourable Member to let us know what will be the financial effect on the revenues if either of these two alternatives are accepted? That will help us very much.

**Mr. F. E. James:** I think perhaps the Honourable the Commerce Member will be able to give those figures. I am not in a position to give them accurately, although I have some idea in my mind as to the actual cost, but I believe the Honourable the Commerce Member is in a position to give those figures to the House. My point is this that although I am aware that immediately there may be a reduction of revenues as a result of this, it must not be forgotten that there has been, by the abolition of the drawback, a corresponding increase in the revenues. I am only asking for a *quid pro quo*. If the withdrawal of the drawback is not agreed to, then, I suggest that, as a set off against the additional revenue accruing to the State through the additional burden on the industry which the withdrawal of the drawback has caused, there should be a reduction in the surcharge which would roughly cancel out the additional amount of revenue obtained. It is a perfectly reasonable plea, and, I hope, the Honourable the Commerce Member will be good enough to give his sympathetic consideration to the matter.

**Mr. President.** (The Honourable Mr. R. K. Shanmukham Chetty): Amendment moved:

"That in the Schedule to the Bill, for the proposed amendment No. 7, the following be substituted:

' 7. After Item No. 58-A, the following shall be inserted, namely:

' 58-B. Tea Chests and parts and fittings thereof '."

**Mr. B. Das** (Orissa Division: Non-Muhammadan): Sir, I rise to oppose the motion moved by my friend, Mr. James. I am surprised that a gentleman who was a party to the Ottawa Agreement should bring forward a motion to improve the situation of any particular industry. Whether the situation will improve or not, I am not concerned, but I am surprised that after due deliberation, after the sitting of the Ottawa Committee, of which my friend, Mr. James, himself was a member and, then, when after long discussions on the floor of this House, the Ottawa Agreement was passed, a motion should be brought forward by a Non-Official Member of this House to amend the same. Sir, what was the Ottawa Agreement? The Ottawa Agreement, as it came out from Ottawa, wanted that this Legislature after six months could bring forward an amendment to take out any item from the preferential treatment granted by the Ottawa Agreement. Has this House become so incompetent? I was very happy at the time, Sir, that I was not present on the floor of the House, because the Members felt so much overwhelmed with their sense of responsibility that they could not vitiate the Ottawa Agreement that you, Sir, brought out from Ottawa and they said "we will work this Agreement for three years; we cannot understand what is contained in the Schedule, let the Government do what they like for three years; let the Government collect as much revenue as they can", and, after three years, the Honourable Members know that they would not be present on the floor of this House. Those who would succeed them after three years

[Mr. B. Das.]

will face the situation, and if they would want to do away either with the whole of the Ottawa Agreement or part of it, they could do so. Sir, I would like my friends to be logical.

My friend, Mr. James, may ask why I did not oppose my friend, Mr. Raisman. My friend, Mr. Raisman, explained the point very well. He said the Government assured the House at the time that they would examine certain aspects of the chemical industry and I accept that explanation about alum, because Government then said that they wanted to examine the position about certain chemicals. But is it not a fact, I ask my friend, Mr. James, and the representatives of the tea industry,—now tea has become an industry,—that they sent a large delegation to Ottawa? Did they not also send two or three Bengalee gentlemen who suddenly came out as representatives of a Bengali Association of tea planters, and one of those gentlemen went about hobnobbing at Ottawa for some time? Sir, I know you are compelled to observe silence on this question by your elevation to your present dignified office, and I find my friend, Sir George Schuster, is not also here, but my friend, Sir Joseph Bhore, will recall to his memory and say whether or not the representatives of the tea industry, both European tea industry and also the Bengali tea industry associations,—if I can rely on newspaper reports,—were subsidised by the European tea planters to go to Ottawa. My friend, Mr. James, did not bring forward these logical explanations. I see there are a good many points in what my friend, Mr. James, has said in giving relief to the tea industry, but I am not here to look at those points. Why is it that their representatives did not represent the case at Ottawa? I want, Sir, the Government to be honest or dishonest.

**An Honourable Member:** Both? (Laughter.)

**Mr. B. Das:** All right, they are both. (Laughter.) But if they dishonestly persuade the Members of this House to confess their ineptitude, to confess that they swallowed the pill not for six months as you, Sir, brought out, but for three years, knowing full well that they would not be present here on the floor of the House to stand the racket, they require to be censured. My friend, Mr. James, said that it will help the tea industry by Rs. 1-8-0 per tea chest. Was it brought before the Ottawa Conference? Did he bring it before the Committee of which he was a member, or before the House while the House was discussing the Ottawa Agreement? I want my friends, the Europeans, to realise the plain truth. I did oppose the Ottawa Agreement, and I cleared out, but some of us had grave doubts whether any benefits would at all accrue to India. I should have been very pleased to hear from my friend, Sir Joseph Bhore, if he had told us how the Indian wheat has flooded the British market, how the Indian cotton has flooded the Lancashire cotton market, so that Lancashire need not buy any more Egyptian or American cotton, or how the coffee that is grown Mysore and Malabar, of which my friend, Dr. DeSouza, is such an ardent advocate, has improved its position, how the European representatives, who control the shipping freights for transporting goods from India to England, have reduced those freights so that it will have a bearing on the good intentions of the Ottawa Agreement. My friend, Sir Joseph Bhore, kept quiet. It is only three months now since this House swallowed the big dose of poison in the shape of the Ottawa Agreement, and now I find that

my friends, the European interests, who have very large interests in the tea industry come forward and say; "Allow the drawback, it will bring to the industry so much improvement." Tomorrow my friend, Mr. Mackenzie, will rise on behalf of the Burma Oil Company and ask for drawbacks. I want to know on what logical ground my friend, Mr. James, based his amendment? Was he a party to the three years' agreement? Did he not have a small share in the Ottawa Agreement when certain gentlemen wrote out that sensible or insensible note in the Committee to the effect that after three years only they would look at the Ottawa Agreement. I cannot understand how the brain has become clear so soon, and he is not able to appreciate the intentions of the Ottawa Agreement. I am not surprised that my friend should have swallowed that pill. If you have swallowed it, then lie in the bed you made for yourself quietly for three years. If it is the intention of Government to give early relief to those who are suffering through the Ottawa Agreement, let them announce it by notification, let them circulate letters to the various Indian Chambers of Commerce, let the Indian merchants consider what damage has been done to Indian Commerce and the Indian industry through this Ottawa Agreement and then let us have a Bill to bring relief. But today to squeak is rather very ungenerous on the part of my friends of the European Group. They are the inspirers of the Ottawa Agreement. Whether they are in India or in England, they all work as one and if the non-commercial Indian politicians, that sit here, swallowed the big pill, with the sweet smiles of my friends, Mr. James and Mr. Morgan, the lawyer politicians, not having understood the economic interest of their motherland. Let them abide by the pact that was entered into in November last and not squeak till three years pass. Sir, I oppose the amendment.

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): My sympathies are with Mr. James in his amendment for seeking a little redress for the tea industry. I do not know what the attitude of the Government will be, but I think they will not stand on any technical ground if they consider that they can really render some assistance, but I feel that the amendment is rather premature now. Mr. James himself said that there is some industry in Northern India that manufactures tea chests, panels and fittings. Certainly Government cannot have any customs arrangements, one for North India and another for South India and we had also no representation from any industry anywhere. So, to speak of the tea industry as purely a European industry is not even correct, because there are not only Indians, interested largely in labour, but there are some Indian tea planters as well, and everybody knows that the tea industry is now passing through very bad times and they deserve some sort of assistance from Government. I do not still know why India cannot produce these tea chests, panels and fittings for the tea industry. In these circumstances, I think Mr. James will do well to wait and press for it later on when we have better information on these matters.

**The Honourable Sir Joseph Bore:** Sir, I am sorry I have to oppose this amendment, the more so, because having listened carefully to Mr. James, I have arrived at the same conclusion as that which Mr. Mitra has arrived at. I feel that he has made out a case which merits *prima facie* careful examination, but I am afraid that my opposition is one of principle at this stage. I have endeavoured to make it clear that the object of this Bill is merely to remedy ambiguities, remove inaccuracies

[Sir Joseph Bhore.]

and that it is not our intention to introduce any matter of substance. My Honourable friend, Mr. James' amendment goes far beyond that. His amendment strives to take this opportunity to introduce a measure, it may be a very small measure but nonetheless, a measure of assistance to the tea industry or I might put it in another way. It seeks to remove or reduce what at this time appears to be a burden which bears somewhat hardly on the industry. Now, I sympathise very greatly with Mr. James, but at the same time I feel myself quite unable to accept an amendment which introduces an entirely new principle into this Bill. The case of liquid gold and glass crucibles stands entirely on a different basis. We gave a very definite assurance during the Select Committee stage of the Bill that we would examine the case of these articles and we are merely implementing that promise in so far as these two items are concerned. At the same time I would like to assure my friend, Mr. James, that the case that he has put forward is a case which does seem to me *prima facie* to merit examination and I shall give him this assurance that I shall endeavour during the period, between this meeting of the Assembly and the next, to go carefully into the matter with my Honourable colleague, the Finance Member. In the meantime I must oppose the amendment.

**Mr. B. Das:** Is this not part of the Ottawa Pact?

**The Honourable Sir Joseph Bhore:** This has got nothing to do with the Ottawa Pact.

**Dr. Ziauddin Ahmad:** I am in great sympathy with Mr. James and, on the merits of the case, I entirely support his motion. The tea industry at present is very hard hit on account of world depression and any aid, however slight, to the tea industry will be most welcome. I would even go further. I would recommend that a subsidy should be given to the tea industry in order to save this important industry from ruin. Some speakers suggested that this industry was entirely in the hands of Europeans. There is a very large number of Indians who own tea estates and, even in the European-managed estates, a very large number of Indians have got shares. So, about 50 per cent., or it may be two-thirds, I do not know exactly, of the industry is owned by Indians in one form or other. This is just the time to help this industry and we could give slight help by reducing the duty in some shape or other.

**Mr. Gaya Prasad Singh** (Muzaffarpur *cum* Champaran: Non-Muhamadan): Why did you not suggest it in the Committee of which you were a member?

**Dr. Ziauddin Ahmad:** The scope of the Bill was limited to certain things and this particular suggestion does not come under the Ottawa Pact. It has been introduced in the present Bill and that is the only point of connection. Otherwise it has absolutely nothing to do with the Ottawa Agreement and it is a question of protection of home industry. I think it is really the duty of the Government to accept the suggestion, but there is one principle which I would not like to uphold and which I am forced to emphasise and it is that the changes in the Schedules of the Tariff Pact should be left to the Government alone. If this is left to individual

Members, we will land ourselves in enormous difficulties which may possibly create an unhealthy atmosphere which will not be desirable. No doubt we should be in a position to explain our difficulties and to mention on the floor of the House and discuss the manner in which particular industries are being affected by customs policy of the Government. I utilised the opportunity during the discussion on the Finance Bill to ventilate my grievances about two particular industries, that is hides and skins and sugar candy.

But, at the same time, I say that it would not be very wise, 12 Noon. and I may say, dangerous, if individual Members are canvassed by interested merchants and they tampered with the schedules attached to a tariff Act. This thing ought to be examined by the Government, either through the Tariff Board or by some other methods at their disposal, and, when they are convinced, the proposal ought to be initiated by them. Our business here really is to draw attention to the difficulties under which particular industries are labouring, and it should be for the Government to carefully consider them. Of course when their own opinions come before the Assembly, we will then again have the right to criticize them and say whether the remedies adopted by the Government have really relieved the industries to the extent to which they are entitled. Therefore, though I agree with the substance of this motion, I am sorry I consider that a motion of this kind ought to have been initiated by the Government. As regards the question of Ottawa, I think this particular question is as far removed from Ottawa as the Earth is from Mars.

**Mr. K. P. Thampan** (West Coast and Nilgiris: Non-Muhammadan Rural): Sir, I quite agree with Dr. Ziauddin Ahmad and others that the time is not yet for us to bring forward amendments of this kind and it is not fair to avail of this opportunity to make radical alterations. (*An Honourable Member*: "Please speak up.") Sir, a Committee of the House will be appointed within a few months to examine the effect of the Act (*An Honourable Member*: "We cannot hear you"), and Mr. James and his friends should approach that Committee with facts and figures of the kind which he has now brought forward. Speaking on the merits of the question itself, I remember that during the war time and for some time afterwards there was an enormous business in the West Coast in the making of packing cases and such things. In Malabar, several kinds of lightwood and timber are available and they were made use of for these packing chests. I am sure, this additional duty will help to revive that industry, and I request the Honourable the Commerce Member not to forget that aspect of the question when he will take into consideration the desirability of abolishing it in the promised enquiry. If this duty will in any way help the industry, as I trust it will, I shall strongly oppose this amendment.

**Mr. Gaya Prasad Singh**: Sir. I am not surprised that the way in which the Ottawa Agreement was smuggled through this House should have landed the Government in this position. Sir, the opening sentence of the Statement of Objects and Reasons says:

"A few inaccuracies and discrepancies in the Indian Tariff (Ottawa Trade Agreement) Amendment Act, 1932, have been brought to light by a further scrutiny of the Schedules to that Act and by practical experience of the new tariffs, and the object of this Bill is to correct them."

My Honourable friend, Sir Joseph Bhore, has also said that there have been "ambiguities, anomalies and mistakes", and I do not know what other adjectives he used in this connection.

**The Honourable Sir Joseph Bhore:** Excuse me, Sir,—they are not adjectives.

**Mr. Gaya Prasad Singh:** I am glad, my friend still carries with him a very brilliant memory of the grammar which he read many years ago,—but I am not surprised that all these encomiums have been heaped upon the Agreement which was passed by this House in December last. At that time, it may be recalled, my friends who made their opening speeches criticized very strongly the Ottawa Trade Agreement, but, somehow or other, by some mysterious process—I am not going to be more explicit (Laughter) on that point—the brilliant idea flashed across their minds that it was very good in the interests of the country, and they came round to support that Agreement. It may also be recalled, Sir, that at that time many of us consistently held that this Trade Agreement at Ottawa was not to the advantage of this country, and we pointed out various defects in that Agreement. But our cry was a cry in the wilderness. Now, I am glad that even the Government have realized that there have been inaccuracies, discrepancies and all that in the measure that they rushed through this House in December last.

My Honourable friend, Dr. Ziauddin Ahmad, said that the tea industry was mostly an Indian industry. Now, there are two industries in this country which cannot claim to be purely or mainly Indian. One is the tea industry and the other is the indigo industry, and in respect of these two industries India holds almost a monopoly, barring the jute industry of Bengal about which I have nothing to say now. With regard to the tea industry in India, the doings of the tea planters of Assam are well-known, and I have no desire to rake up the history of the way in which the tea industry came to establish itself in this country, and with the help of the Government of that day, and how the coolies from different parts of the country, especially from my province and the neighbouring province of Bengal, were drafted to Assam on conditions virtually amounting to slavery. It was only last year that we passed a measure, at the instance of my Honourable friend, Sir Frank Noyce giving some relief to the coolies who are sent to Assam. Then, my Honourable friend, Dr. Ziauddin Ahmad, referred to the canvassing of votes. Well, I do not know what he meant by the canvassing of votes, but I know how votes were canvassed, and how hopes were dangled before some of us when that Ottawa Trade Agreement was under discussion in December last. I do not know whether my Honourable friend, Dr. Ziauddin Ahmad, supported this motion of Mr. James, or opposed it. In any case, Sir, he will have ample opportunity, if he has the opportunity of going to England in the near future, of studying this question in a bracing climate, and giving us his opinion on his return. (Laughter.) Therefore, I say, Sir, that this Indian Tariff (Ottawa Trade Agreement) Supplementary Amendment Bill should not have been brought before us at this time, and I do not know what led Government to bring it up before us just now. They should have been more careful in examining the situation in the light of longer experience of the working of the Act which we passed last year. I do not know what representations, if any, have been received from the representatives of the tea industries regarding the matters mentioned in this amendment. If any representations have been received, it was up to the Government to have made available to us those papers, and, therefore, Sir, I do not think that the amendment of my Honourable friend, Mr. James, is quite opportune, because n-

opportunity has been given to the country or to the House to examine the position and find out whether this amendment, which my Honourable friend seeks to introduce, is needed at all or not. Therefore, Sir, I disagree with that amendment. With these few words, I resume my seat.

**Mr. F. E. James:** Sir, I very much appreciate the assurance that the Honourable the Commerce Member will look into this matter between now and the September Session. My only purpose in tabling this amendment was to ventilate on the floor of the House what we consider to be a grievance from which the industry is suffering and I appreciate the remarks made by Dr. Ziauddin Ahmad that it should not be left to private motions to alter tariff arrangements under ordinary circumstances. I entirely agree with that view. Therefore, Sir, in those circumstances, I would beg leave of the House to withdraw my amendment on the assurance given by the Honourable the Commerce Member.

The amendment was, by leave of the Assembly, withdrawn.

The Schedule, as amended, was added to the Bill.

Clause 2 was added to the Bill.

**Mr. F. E. James:** Mr. President, I beg to move:

"That after clause 2 of the Bill, the following new clause be added:

'3. Item No. 99 of the Second Schedule to the Indian Tariff Act, 1894, as inserted by Item 5 of the Schedule to this Act, shall in so far as it relates to printing paper which is not the produce or manufacture of the United Kingdom, be deemed to have come into force on the first day of January, 1933, and a refund of any excess duty paid between the said date and the commencement of this Act may be made accordingly'."

Sir, perhaps the fact that I am moving this amendment will prove to my Honourable friend, Mr. B. Das, my *bona fides*, because what has happened is that, although newsprint was expressly excluded by the Indian Delegation from the list of goods entitled to preference, in fact, owing to a small mistake for which this House was responsible when we passed the Bill, a preference has indeed been given to newsprint coming from the United Kingdom. Of course, my Honourable friend, Mr. Das, was not present in the House at that time. He was in another place making the new province of Orissa safe for the Telugus and trying to get into his new province many Telugus who had no other desire but to live in peace and harmony in the Madras Presidency! Therefore, we cannot saddle him with responsibility for this particular thing. But, Sir, I would ask him to support this amendment, because it suggests that the House should, in rectifying this mistake, re-imburse newspapers with the additional customs duty which they have paid on their newsprint as a result of a mistake which the House has committed. That is all that this amendment seeks to do.

I am quite sure that the Government will say that it is a well-established principle that law regulating the customs duty cannot be given retrospective effect without great difficulty, yet I would suggest that if this House is responsible for the original mistake, it will be quite proper for this House to take responsibility on itself for authorising a payment of the refund. And this amount that has been collected from newspapers owing to this mistake is not inconsiderable. I have taken the trouble to ascertain from certain newspapers in different parts



[Mr. F. E. James.]

of the country the actual amount involved. In the case of one paper in Calcutta, the amount is over Rs. 3,000 and, in the case of one paper in Madras,—this time an Indian paper,—the amount is in the neighbourhood of Rs. 2,000 to Rs. 2,500. I have been assured by Honourable Members, who are interested in the Indian Press and who import newsprint from foreign countries, that they also have had to pay amounts varying from Rs. 500 to nearly Rs. 2,000 excess duty owing to the mistake which this House made and which it did not intend to make at the time. Therefore, I do hope that the Honourable the Commerce Member will be able to help the papers in this connection.

There is one other point I should like to draw his attention to. His Bill is to correct anomalies. Now, there is one anomaly which exists in regard to newsprint. Newsprint is imported in sheets and in reels. The cost of the reels is obviously less than the cost of sheets and yet we find that the tariff valuation is the same. If he desires to correct anomalies in the Act, may I suggest to him that he may also inquire into this matter and see whether he cannot also correct anomalies in the tariff valuation.

Sir, I move.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Amendment moved:

“That after clause 2 of the Bill, the following new clause be added:

‘3. Item No. 99 of the Second Schedule to the Indian Tariff Act, 1894, as inserted by Item 5 of the Schedule to this Act, shall in so far as Refund of excess it relates to printing paper which is not the produce duty on news-print. or manufacture of the United Kingdom, be deemed to have come into force on the first day of January, 1933, and a refund of any excess duty paid between the said date and the commencement of this Act may be made accordingly.’”

**Mr. K. P. Thampan:** Sir, I have great pleasure to support this motion. I believe it was a culpable error to have included this item or rather omitted its exclusion from the list of articles in favour of which preference was given in the Tariff Act. It was not deliberately intended to do so, but was only a mistake, as it was said in reply by the Honourable Member in charge of the Bill to a question put by me the other day. Sir, papers like the *Statesman* and others to which reference was made by my Honourable friend, Mr. James, can very well afford to pay this additional duty, but what about the innumerable number of Indian papers which carry on a hand to mouth existence? I am afraid they will be very much handicapped. No one had the least desire to make this an additional burden on them. If it was through a mistake that we imposed this burden on them, it is only fair and proper that we should rectify it. I, therefore, strongly urge on the Government and on the House to give this relief which, I am sure, will go a long way to help the poor journals in these hard days.

**Diwan Bahadur A. Ramaswami Mudaliar** (Madras City: Non-Muhammadan Urban): Mr. President, while I sympathise very largely with this amendment, I am afraid I am unable to support it for a very simple reason. This amendment is intended not indeed to remove a duty that has been imposed by the Government, but to give retrospective effect and to give refund to those who imported from 1st January. Now, I ask my Honourable friend, Mr. James, to whom is this refund to be given?

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It is perfectly true that some newspapers are the direct importers of this newsprint and the refund will go to them. But there are hundreds of newspapers who buy their newsprint from various agencies. The newspapers can get the benefit of it only when they are directly importing the newsprint, but there are hundreds of newspapers who buy in the retail and are not direct importers of newsprint. That is my strong objection for giving any such refund, for the result of it is that the direct importer gets the benefit of it at the expense of the Government and does not pass on the benefit to various newspapers. Let me not be misunderstood as having no sympathy with newspapers. There are a few English newspapers and also a few Indian newspapers which have got such financial resource as to be able to import direct this newsprint and, therefore, they can get the benefit. But, as against them, there are hundreds of newspapers which can only buy the newsprint in the Indian market from those who have imported it. Anybody who knows the sale of this newsprint must be aware that it passes from hand to hand and dealer to dealer till it comes to the retailer and then it passes on to the newspaper owners who publish their weeklies and dailies, and so on. Therefore, it seems to me that the refund will benefit a class of persons who do not deserve to be benefited and who will take the profit at the expense of the newspaper owners. On that short ground, I oppose this amendment.

**Mr. K. C. Neogy** (Dacca Division: Non-Muhammadan Rural): Sir, this Bill is primarily intended to remove certain anomalies and correct certain mistakes. But there are many of us who think that the entire Ottawa Agreement was an anomaly and a mistake; and, from that point of view, I am not very anxious to assist my Honourable friend, Mr. James, in correcting a particular error for the purpose of benefiting a particular section of the Press. Sir, I remember that the leading newspapers, representing the views generally represented by my Honourable friend, Mr. James, and who are the principal parties to benefit by his amendment, were so wild with enthusiasm over the Ottawa Agreement that they had no leisure or opportunity to examine the details of the proposals of the Bill as it emerged from the Committee of this House, even in respect of a matter which was going to affect them materially. Therefore, I say, Sir, that those newspapers have to thank themselves for any inconvenience that may result from this particular measure; and, from that point of view, I do not think the class of newspapers which the Honourable Member represents deserves any sympathy in this House. And besides, my Honourable friend and several others who were in the Committee were expected to bear in mind the interests of the various newspapers as of other interests in the country; and, if they misled this House in their report into adopting an incorrect measure, it is not for the Honourable Member now to foist that mistake on this House itself. Because, I understand that, in passing this measure, no amendment was carried at the instance of this House, that is to say, the report, as it emerged from the Committee, was substantially adopted. From that point of view also, I do not think that my Honourable friend is entitled to any consideration.

**Mr. C. S. Ranga Iyer** (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, after hearing the speech of Mr. Neogy, I am constrained to support my Honourable friend on the European Benches.

**Mr. B. Das:** You agreed with Mr. James all throughout.

**Mr. C. S. Ranga Iyer:** My Honourable friend, Mr. Das, is singularly lacking in humour this morning.

Sir, as a newspaper man, I believe that I may extend my support to the proposition that has been placed before this House. Mr. Neogy was saying that this House accepted the recommendations of the Committee and that, if the Committee made a mistake, we must persist in that mistake. That is an extremely unwise proposition for any individual or administration to follow. Administration is carried on by men, and men are not infallible. The Committee made a mistake and, as the mistake was committed and is being rectified, it is but proper that it must be rectified with retrospective effect, so that the newspapers must not be punished for the mistake of the Administration. And, Sir, it is not only the big newspapers, who directly import, that are affected, but also the small newspapers who purchase from merchants. And when they book their next order they will insist when the merchants get refunds that this should be taken into consideration, and merchants do take these things into consideration, so that they will be paid back what, owing to the mistake of Government, they had been made to pay. For these reasons, Sir, I think it is but proper that Government do not take a chequering attitude in the matter or follow the philosophy of Mr. Neogy in persisting in punishing those who are not responsible for the mistake for which Government are responsible.

**Mr. B. Das:** Sir, it is no wonder that my friend, Mr. Ranga Iyer, found me lacking in humour this morning. In the earlier debate this morning, when he was absent, I did see very much humour flying all over the House. I am not one of those, Sir, who after swallowing an elephant will strain at a gnat. But my friend, after swallowing the whole Ottawa Pact, would strain at a few thousand rupees. Sir, I am myself a journalist, and if I may voice the view-point of the Indian journalists, Indian publicists would rather pay one or two pies more than come and humiliate themselves and beg the removal of the tax, as they opposed throughout the unholy recommendations of the Ottawa Agreement. My friend, Mr. James, laid a charge against the Commerce Member that the mistake has been intentional. I hope my Honourable friend, Sir Joseph Bhore, will clear the point whether the mistake was intentional on the part of the Commerce Member or on the part of the representatives of the Press as Mr. Neogy pointed out.

**Mr. F. E. James:** I did not say that: I did not say it was intentional.

**Mr. B. Das:** On the part of this House.

**Mr. F. E. James:** No, neither; it was an unfortunate mistake.

**Mr. B. Das:** Sir, I do not think any mistake has been made; if at all any mistake was made, it has been deliberately made. As we have deliberately made the big mistake of swallowing the Ottawa pill. I will swallow this small pill also.

**Dr. Ziauddin Ahmad:** Sir, my position about this amendment is practically the same as it was on the last occasion: I admit that its nature is quite different from the previous motion moved by my Honourable friend, Mr. James. First, I will say just a few words about the insinuations which my friend, Mr. Gaya Prasad Singh, made about some of my arguments. He said that he did not even understand whether I was supporting or whether I was opposing Mr. James in spite of the fact that Mr. James replied my arguments. Sir, I can give my poor reasons here on the floor of this House, but it is beyond my power to ensure that every Honourable Member understands them. As regards insinuations, I have been accustomed to them for the last 18 years. There has not been a single post going in the Government of India or elsewhere in connection with which my name has not been mentioned. For the benefit of my friend, Mr. Gaya Prasad Singh, I may say that Government have offered me the Presidentship of a commission which I have accepted. The purpose of the commission is to provide relief to the over flowing population of India for whom there is not sufficient land on this planet, called Earth, and so they have appointed a Royal Commission to find out the possibility of colonisation for super population of India on the planet of Mars. I have been calculating in my own mind how to establish a means of communication between this earth and the planet of Mars, and as soon as I have solved the Partial Differential Equation of infinite order which is necessary and solve this important problem, I shall start the work and I can assure my friend, Mr. Gaya Prasad Singh, that I will take him on this Commission as Secretary and Chief Adviser. I admit very frankly that I have got one weakness. My weakness is that I do not leave my sense of reasoning at my house when I come to this Assembly Chamber; I bring unfortunately my reasoning sense with me. If I am convinced that two and two is equal to four, I will always say so. I will not refuse to admit its truth only on the ground that my Honourable friend, Sir Joseph Bhore, or my Honourable friend, Sir Harry Haig, also admit that two and two is equal to four. I will not begin to call that two and two is equal to five, because the Members of the Treasury Benches say that two and two is equal to four. I am for the truth. I am always prepared to admit truth from whatever source it comes, because I am a great believer in that Arabic proverb "Consider what has been said and not who said it". (*Unzur ma Qala, wa latunzur man Qala.*) A politician or a historian admits or rejects a statement on the authority of persons whom he believes or disbelieves. Personal equation has no place in the minds of scientists.

As regards this particular amendment, I have great sympathy with what my friend, Diwan Bahadur Mudaliar, has said that it is very difficult to decide to whom this money will be refunded, and I think that, in case of doubt, the money should remain with the State.

**Mr. K. C. Neogy:** Why not distribute it amongst members of the Ottawa Committee?

**Dr. Ziauddin Ahmad:** My friend suggests it to be distributed amongst the members of the Ottawa Committee, and I would certainly have agreed to it had I left my reasoning sense at home. Sir, I do not support the amendment for the reasons I have just given.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions: Non-Muhammadan): Sir Honourable Members behind me have raised the larger issue and not confined themselves to the particular amendment with which we are concerned. I feel constrained to offer a few observations, especially in view of the fact that my Honourable friend, Mr. K. C. Neogy, accuses the Ottawa Committee of having committed a mistake and, with some levity, suggested the distribution of the proceeds of the amendment to the Members of this Committee. My Honourable friend has been in this House since its inception and if there is one Member in this House it is he who ought to know that it is not the function of the Select Committee to legislate. It is the business of this House, and the Ottawa Agreement and its consequential legislation was not the work of the Select Committee, but was the business of this House, and every Member, whether he occupies the Treasury Benches or the official seats or the Opposition Benches, is equally responsible for that piece of legislation into which these anomalies have crept in. My friend was not in the House at the time. He was not even in India but was carrying on his duties elsewhere, and when my friend, Mr. B. Das, rises and says that this agreement is of doubtful advantage, surely, Sir, I should have expected Mr. B. Das, who was appointed a member of this Committee, to forego his other parochial interest and serve thereon as a Member of this House. He withdrew his service of this House for purpose of his own, and it certainly does not lie in his mouth now to come back and oppose this amendment, or to say that the Ottawa Compromise is of doubtful value. That, again, shows that my Honourable friend has not read the amendment, which this House has passed, and, if my friend had given this House the courtesy to look into the Agreement, he would not have permitted himself to launch a general diatribe against the Ottawa Select Committee.

Mr. friend, Mr. Gaya Prasad Singh, for whom I have a tender corner in my heart, gives expression to similar views and makes interjection on the Ottawa Agreement so often and on so many occasions that I have ceased to take him seriously. I am not, therefore, going to measure swords with him, but I will ask him only one question and that question is that numerous Bills, Resolutions, amendments and measures are passed in this House from day to day, upon which Members on both sides are sharply divided, but once they go on to the Statute-book, we do not ascribe motives to one another for voting for or against a particular amendment, because do not Members equally differ when, impelled by a sense of public duty, they come to a judgment, come to a decision in which they may not see eye to eye with a few of their dissentient friends?

Turning to this Ottawa Agreement, every step and every stage of the discussion of the Select Committee was known to my friend, Mr. Gaya Prasad Singh. It was subjected to scrutiny by every member of the Party to which he and I have the honour to belong and it was subjected to the unfettered judgment of everybody outside of that Party. The subject was discussed in a Party meeting and members were given their freedom of vote. After that, what complaint has he or his colleagues to adopt their present attitude on the amendment finally discussed, debated and decided on the floor of this House? There was no secrecy about the arrangement. Everything was published in the newspapers, and opinions invited and received and all the witnesses questioned on the points later focussed in the amendment.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Chair has allowed a certain amount of latitude in this debate, especially on this amendment, but it cannot allow a general discussion on the policy of the Ottawa Agreement Bill which is coming to the forefront in this debate. This is properly not a debate of this nature. The Chair has allowed it so far to the Honourable Member, because he has been the target of attack by certain Members. The Chair cannot allow the discussion to extend to the whole policy of the Ottawa Trade Agreement, but it should be confined to the four corners of the proposed amendment.

**Sir Hari Singh Gour:** I thank you for having permitted me to say what I have done. I may also say that, although there is no direct accusation, and only an insinuation, but an insinuation is far more damaging than a direct accusation, I would prefer the latter for I shall then know how to act.

Now, turning to the amendment before us, the question is a very short one. It is a very narrow one. It is not true that it was the mistake of the Select Committee. It is not equally true that it was the mistake of any section of the House. What is true is that it is a mistake of the Legislative Assembly that passed the motion, and the whole question before the House is—is this House, which is collectively responsible for the enactment of the measure, prepared to reconsider its verdict, when it is shown that that verdict was reached after immature and insufficient consideration? That is the only short question with which we are concerned. My friend, Mr. James, says—you have levied this duty under a misapprehension. There was a mistake. My friend, Diwan Bahadur Mudaliar, will not challenge the major issue, but says that the benefit of refund may not reach the people from whom this tax is extracted. My Honourable friend, Mr. Ranga Iyer, has effectively dealt with that question. He has pointed out that if once an amount has been received from a person from whom it was not due, then the utmost that the Legislature can do is to place the parties in the *status quo ante* and if, by so doing, they rectify the mistake, we have done our duty. Our moral obligation no doubt remains to see that other people do not profit by the mistake that has been made in so far as we are able to prevent that abuse. Mr. Ranga Iyer has effectively disposed of the objection that the refund will remain with the middleman and will not pass on to the consumer. He has shown that the consumer will turn round to the middleman and obtain the amount not due. Consequently the amount must be refunded, since they will have a very good cause of action against the people who have received the benefit to which the purchasers were ultimately entitled. I cannot see any insurmountable difficulty in the way of righting the wrong and I, therefore, support the amendment.

**Mr. Gaya Prasad Singh:** Sir, I thank my revered Leader, Sir Hari Singh Gour, for saying that he has a tender corner in his heart for me. I hope I will do nothing to dislodge myself from that tender position. (Laughter).

My Honourable friend said that there was a mistake in the original Act, and that the amendment of Mr. James was going to rectify that mistake. My Honourable friend, Mr. Ranga Iyer, also admitted that it was a mistake, and he, as a newspaper man, was anxious to secure relief which the passing of this amendment will afford. I should have thought

[Mr. Gaya Prasad Singh.]

that my friend, Mr. Ranga Iyer, a journalist as he is, should have bestowed some thought on the matter in the Ottawa Committee of which he was a distinguished member. Probably he was the only journalist in that Committee, and at least the interests of his own profession should have weighed with him more than any other consideration. I did not quite catch my Honourable friend, Mr. James, when he said that it was not a mistake of the Committee, but a mistake of the House. I do not know. However, Mr. James was also a member of that Committee, and he also now perceives that a mistake was committed. It is somewhat surprising that all these friends who were members of that somewhat mysterious Committee should have been blind to that mistake at that time—my revered Leader, my revered Deputy Leader, Mr. James and Dr. Ziauddin Ahmad—they were all asleep when this culpable or palpable mistake (Laughter) was committed in the Ottawa Committee; and it was only at the instance of my Honourable friend, Mr. Arthur Moore, whom I do not find in this House and whose cause has been championed by Mr. James, that this mistake has been discovered.

I understand from my friend, Dr. Ziauddin Ahmad, that he is going to make a very long journey to the planet Mars: I only credited him with the idea of going to England as many of us do these hot days when India ceases to be a very pleasant country, and I think many of my friends will have that pleasant opportunity of going to England. I do not think there was any insinuation—of course if the cap fits any Honourable gentleman of this House, he is quite entitled to wear it; but, so far as I can conceive, a mere trip to England is not ascribing any bad motive: if anybody says I am going to England, I would be pleased, and I will not say that there was some sort of motive hidden behind the suggestion. These gentlemen are quite aware of their own minds; I do not know what is going on behind the scenes. However, as regards the amendment itself, I am afraid, I cannot give support to it: and one reason, as has been mentioned by my Honourable friend, Mr. Mudaliar, is this: if there are only certain newspapers which import their requirements directly from England, there are a large number of persons who purchase their supplies in the local market. What about those people if refund is allowed to the importers? It will go mostly to those who import directly from England or elsewhere; but what about the retail purchasers in the market? The benefit will not accrue to them, and they are pre-eminently the class of people to whom any relief, if relief is to be given, should be given. As regards the *Statesman*, I understand from my friend, Mr. James, that it is about Rs. 3,000 which it will receive, by way of refund if this amendment is carried . . . .

**Mr. F. E. James:** I should like to make it clear that I made no reference to any paper whatsoever: I merely enumerated one or two instances, one from Madras, one from Bombay and one from Calcutta as to the amounts which might be paid.

**Mr. Gaya Prasad Singh:** I did not say that he made reference to the *Statesman* in that sense, but my information is that a considerable sum of money will be refunded to the *Statesman*: I do not know how far it is correct. The *Statesman* should console itself by remembering the fact

that it does recoup itself and that it will recoup itself amply by getting advertisements from the Government on a lavish scale, as it has been doing, and also from the Port Commissioners of Calcutta. I do not think that so soon, after the passage of the Ottawa Agreement in December last, we should do anything to disturb the arrangement. It was, as my friend, Mr. Neogy, has suggested, a mistake to have passed that Ottawa Agreement. It will be a double mistake if we go on accepting amendment after amendment at this rate, until the whole thing will verge on the ridiculous. I, therefore, oppose this amendment.

**The Honourable Sir Joseph Bhore:** Sir, I am afraid that I must oppose this amendment . . . . .

**Mr. Gaya Prasad Singh:** So we have been supporting Government unwittingly!

**The Honourable Sir Joseph Bhore:** . . . . though I do recognise that the reasons which have been urged in support of the amendment have some force in them. If I oppose the amendment, it is on the ground of principle because Government cannot countenance retrospective legislation without exceptional reasons. I find that a similar amendment to that moved by my Honourable friend, Mr. James, stands in the name of Mr. Arthur Moore; and for the position which I am taking I find support from an opinion expressed in the report of a Select Committee of which Mr. Arthur Moore was a member some time ago. In the report of the Select Committee, appointed by this House, to consider the Bill to amend the law relating to the Bamboo Paper industry in 1927, occurs the following passage:

"We have considered whether in this case also retrospective effect should be given to the amendment of the law so as to enable refunds to be made to importers of the difference between the duty at the protective rate and duty at the revenue rate; but in our view the exceptional circumstances which alone can justify fiscal legislation with retrospective effect are absent".

My object in quoting that is merely to say that I entirely agree with the view that, if retrospective effect is given to legislation, it must be supported by extremely strong reasons; and I confess that in this particular case I cannot find that such strong reasons exist. Then, Sir, apart from the question of principle, there are other subsidiary reasons for not accepting this amendment. I submit that we could not give retrospective effect to just one single item in the Bill. It would be necessary to extend that effect to other items to which it is extendable; and if we once started doing that, I am afraid that there would be very considerable administrative difficulties and inconveniences. Thirdly, there is another reason, the reason to which my Honourable friend, Diwan Bahadur Ramaswami Mudaliar, referred; and to my mind that does afford a very strong ground for not agreeing to the amendment. I think it is extremely doubtful whether the small buyers of paper would be enabled to get the benefit of this refund if it were sanctioned under this amendment. For all these reasons, I think that a case has not been made out to give retrospective effect to the change and I must oppose the amendment.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Does the Honourable Member wish to press the amendment?



**Mr. F. E. James:** Yes, Sir.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That after clause 2 of the Bill, the following new clause be added:

'3. Item No. 99 of the Second Schedule to the Indian Tariff Act, 1894, as inserted by Item 5 of the Schedule to this Act shall in so far as it relates to printing paper on news-print, which is not the produce or manufacture of the United Kingdom be deemed to have come into force on the 1st of January 1933, and a refund of any excess duty paid between the said date and the commencement of this Act may be made accordingly.'

The motion was negatived.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is that clause 1 stand part of the Bill.

The motion was adopted.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

**The Honourable Sir Joseph Bhore:** Sir, I move that the Bill, as amended, be passed.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That the Bill to supplement the Indian Tariff (Ottawa Trade Agreement) Amendment Act, 1932, as amended, be passed.

The motion was adopted.

## THE PROVINCIAL CRIMINAL LAW SUPPLEMENTING BILL.

**The Honourable Sir Harry Haig** (Home Member): Sir, I rise to move:

"That the Bill to supplement the provisions of the Bengal Public Security Act, 1932, the Bihar and Orissa Public Safety Act, 1933, the Bombay Special (Emergency) Powers Act, 1932, the United Provinces Special Powers Act, 1932, and the Punjab Criminal Law (Amendment) Act, 1932, for certain purposes, be taken into consideration".

The House, Sir, will remember that when the Government introduced the Criminal Law Amendment Bill last autumn, I made it clear that we were including in that Bill only those powers which general review of the situation showed to be required for the whole of India and that we were leaving it to Local Governments to supplement those provisions by local legislation in order to meet local conditions. Since then local legislation has been passed by a number of local Councils, and this Bill is intended to supplement that local legislation only on points where the Local Legislature had not jurisdiction to carry out in full the provisions which the Local Governments considered necessary.

The present Bill deals with the following points. In the first place, it is proposed to grant a right of appeal to the High Court of Calcutta from certain sentences passed by Special Magistrates in Bengal. That provision is beyond the powers of the Bengal Legislature. The reason why

this provision is confined to Bengal is that the Bengal Legislature is the only Legislature which has provided in its special Act for a system of Special Magistrates. In the next place, we have certain provisions which are directed to barring the jurisdiction of High Courts in certain respects. In the first place, provisions have been inserted in a number of the special local Acts providing protection for acts done or intended to be done in good faith under those Acts. Provisions of this nature are included in the Acts in Bihar and Orissa, Bombay, the United Provinces and Bengal. These provisions, however, as they stand in the local Acts, can only apply to the Courts subordinate to the High Courts and cannot bind the High Courts. We propose that these provisions should extend also to the High Courts.

In the second place, provisions have been inserted in certain of these local Acts that proceedings or orders purporting to be taken or made under the Act should not be called in question by any Court. Provisions of that kind exist in the Acts in Bombay, the United Provinces and Bengal, and just as in the case of what I might call the indemnity provisions, it is proposed by this legislation to extend that bar of jurisdiction beyond the subordinate Courts and to apply it also to the High Courts. I may perhaps explain as a matter of drafting why we have inserted a special clause, clause 4, dealing with the Bengal Public Security Act. It is not that the substance of the section in the Bengal Act differs from the substance of other local Acts, but that at the end of their section (section 27) a proviso was inserted—"provided that nothing in this section shall affect the jurisdiction of the High Court". Now, Sir, it was explained at the time that proviso was inserted, that the object was merely to make it clear (a doubt on the point having been raised) that it was not within the jurisdiction of the local Legislative Council to affect the powers of the High Court. It was only to clear up that doubt, to make it perfectly plain that the local Legislature was not enacting a provision *ultra vires* that this proviso was inserted and the Government spokesman at the time spoke as follows. He said:

"I would also make another thing clear. It must be clearly understood that this proviso is not to be interpreted as interfering with the freedom of the local Government to obtain the introduction of legislation subsequently by which the jurisdiction of the High Court may be barred in the same way as subsequent legislation will be introduced in order to supplement clause 18 in respect of appeals".

But owing to the particular form which this section took in Bengal, it was not possible to include the reference to the Bengal section in clause 3, and we, therefore, thought it better to put it separately in clause 4. It is simply a drafting point.

And finally in clause 5 we have a proposal that the *Habeas Corpus* provisions of the Criminal Procedure Code should not be exercised in respect of persons committed to or detained in custody under the provisions of the Punjab Criminal Law (Amendment) Act. That is in fact a more limited provision than the general provision which we have in the case of certain other provincial Acts that proceedings or orders purporting to be taken or made under the Act should not be called in question by any Court, but the Government of the Punjab whose special powers in this respect were to a large extent directed against terrorism expressed the view that this provision would be sufficient to meet the practical conditions in the Punjab. Sir, I move.

**Sardar Sant Singh** (West Punjab: Sikh): Sir, this is a Bill which purports to touch at one stroke four provinces of India. The Local Legislatures in each Province have decided wisely or unwisely to enact measures of a highly repressive nature. That controversy is probably at an end when finally the measures have come to us as a passed measure. In order to deal with this measure, I will, with your permission, Sir, go into certain details of those measures, not questioning the jurisdiction of the Legislature except in so far as they are relevant to the measure now before this Honourable House.

The first thing that I want to raise in this connection is a question of principle, whether these measures are *intra vires* of the Legislatures that enacted them or are *ultra vires*. In looking to the preamble of this measure, we know that all these measures have definite scopes. Taking first, the Bengal Public Security Act. In its preamble, it is enacted:

"Whereas it is expedient to provide for the maintenance of the public security in case of emergency and for the trial of certain offences by special magistrates in such emergency".

Looking to the Punjab Act, we find the scope given as:

"Whereas it is expedient to supplement the criminal law for the purpose hereinafter appearing".

The preamble of the U. P. Act reads:

"Whereas it is expedient to make provision against and to take powers to deal with instigation to the illegal refusal of the payment of certain liabilities".

The Bombay Act says in its preamble:

"Whereas it is expedient to confer special powers upon Government and upon its officers for the maintenance of public security in case of emergency".

While the Bihar and Orissa Act says:

"Whereas it is expedient to confer special power on Government and its officers for the purpose of maintaining law and order".

Now, these preambles go to show the scope of the Act and, on this scope of the Act, as represented by this preamble, it seems that sanction was sought of the Governor General in Council in accordance with the provisions of section 80-A of the Government of India Act. My submission in this case is, if you look to the body of these enactments, you will find, Sir, that the provisions enacted in that Act itself are much more extensive than the preamble supposes them to be, my objection is, Sir, that the scope of the Act was restricted by the terms of the preamble, but the Legislatures proceeded to enact provisions beyond the scope. I anticipate the objection which may be taken by the Honourable the Law Member by saying that the preamble of the Act does not control the scope of the provisions of the Act itself. Probably in this connection "Maxwell on the Interpretation of Statutes" may be quoted. I am quite aware of what this author of the book states:

"But the preamble cannot either restrict or extend the enacting power when the language and the object and scope of the Act are not open to doubt. It is not unusual to find that the enacting part is not exactly co-extensive with the preamble".

The author quotes numerous authorities in support of his view. My submission in this respect is that this interpretation of Statutes as laid down by "Maxwell on the Interpretation of Statutes" does not apply to

the case of Indian Legislatures and that is a distinguishing point which I want to make out so far as this particular portion of my speech is concerned. The only enactments quoted therein are enactments passed by a Sovereign Legislature like both Houses of Parliament.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. The Chair does not follow the Honourable Member's speech quite well. Is he attempting to argue whether these local Acts referred to are *ultra vires* of those Local Legislatures.

**Sardar Sant Singh**: Yes.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Chair would like to know how it is relevant to the present Bill.

**Sardar Sant Singh**: The relevancy comes in in this way. If the Act itself is *ultra vires*, you cannot supplement that Act by any measures brought forward in this House.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Is it then that the Honourable Member is raising a point of order whether the present Bill is *ultra vires* or *intra vires* of this Legislature.

**Sardar Sant Singh**: The position, as I understand it, is this. If the Act itself is *ultra vires*, then we cannot supplement it by legislation in this House.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Is the Honourable Member raising a definite point of order?

**Sardar Sant Singh**: It may be taken in that light.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. If the Honourable Member is raising that as a point of order, he must have commenced his speech by raising that point of order, but if he is simply arguing the point whether a certain local Act is *ultra vires* of the Local Legislature, then the Chair cannot allow that discussion to take place on the floor of this House, because this House is not a competent body to discuss whether a particular Act passed by a Local Legislature is *ultra vires* or *intra vires* of that Legislature.

**Sardar Sant Singh**: May I explain what I mean by placing this as an argument before the Honourable Members of this House? My argument in connection with the preamble to those Acts is that those Acts were not passed in accordance with the sanction.

**Mr. C. C. Biswas** (Calcutta: Non-Muhammadan Urban): On a point of order. The Chair has given a ruling that it is not permissible to the Honourable Member to argue that these local Acts were *ultra vires* of the Local Legislatures, unless he wishes to raise a definite point of order that this Bill to supplement the provisions of those Acts is *ultra vires* of this Legislature. In view of that ruling, is it open to the Honourable Member to argue the matter still further?

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): If the Honourable Member wants to raise a point of order and argue that the present Bill is *ultra vires* of this Legislature, he is perfectly at liberty to do so, and I would like him to inform the Chair directly whether that is his object.

**Sardar Sant Singh:** Sir, I was explaining myself, when my Honourable friend from Bengal, Mr. Biswas, objected to my discussing this point and thus fully explaining my view to you. Probably, he did not like his local patriotism to be questioned . . . . .

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. The Chair has put a question to the Honourable Member and expects an answer.

**Sardar Sant Singh:** Sir, my object is that if I succeed in persuading this House to this view that this Legislature is not competent . . . . .

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. The Honourable Member has perhaps understood the point raised by the Chair. He must say directly whether it is his object in raising the point of order to show that this proposed legislation is *ultra vires* of this House.

**Sardar Sant Singh:** My submission, Sir, is that, unless I explain myself, how can I bring out my point? But in one word I may say that this measure is *ultra vires*.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Is it the contention of the Honourable Member, in raising that point of order, that this measure is *ultra vires* of this House?

**Sardar Sant Singh:** Yes, Sir.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Honourable Member will raise that point of order after Lunch.

The Assembly then adjourned for Lunch Till Half Past Two of the Clock.

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The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) in the Chair.

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**Sardar Sant Singh:** With your permission, Sir, I would like to explain my position with regard to the point that was under discussion. My position is that I know it perfectly well that this House is not in any position to declare that a particular enactment of the Local Legislature is invalid. This House cannot make any such declaration. Neither do I want the House to do that. But I want to use this as an argument that this House should not be a party to the enactment of a measure to supplement local Acts which some competent authority may declare to be an invalid enactment. This House should not place its stamp of validity without fully appreciating its implications.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): So, the Honourable Member is not raising a point of order.

**Sardar Sant Singh**: In that sense, I am not raising a point of order. That is so.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): A point of order has got only one sense. A point of order raises some question on which the Chair is called upon to give a ruling. Before we adjourned for Lunch, the Chair put a specific question to the Honourable Member, namely, whether he was raising a point of order that the present measure was *ultra vires* of this Legislature? And he said, yes. Is the Chair to understand that he has abandoned that position now and that he is not raising a point of order?

**Sardar Sant Singh**: I am not raising that point of order.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Honourable Member, then, is not raising any point of order.

**Sardar Sant Singh**: Yes, Sir, I am not raising any point of order. May I proceed, Sir, with my main speech?

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Yes.

**Sardar Sant Singh**: My position, therefore, is that all these Local Acts go beyond the scope of the preamble and I was submitting before this Honourable House that the cases of those enactments which are quoted by Mr. Maxwell in his book on the "Interpretation of Statutes" are cases of those enactments which are passed by Parliament which is the sovereign body. In this case, the local Legislature in certain respects is controlled by another authority, namely, the Governor General. The power being restricted to the sanction to be granted or withheld by the Governor General, it is clear, then, that no legislation can be passed beyond the scope of the sanction granted by the Governor General.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Chair is very sorry that the Honourable Member, who is himself a distinguished lawyer, should so persistently ignore the point, to which his attention has been drawn by the Chair repeatedly, that it is not competent for any Honourable Member to discuss on the floor of this House whether a local Legislature was competent to enact a certain legislation, and the Honourable Member is still giving arguments in support of that contention.

**Sardar Sant Singh**: I am sorry, Sir, I have not been able to put forward the view that I was expressing in that clear manner as to take the Chair with me on that argument. My argument only extended so far that this House should take into consideration this aspect of the case as well before giving their vote in support of this measure. I go only so far and no further. Therefore, I will submit that the provisions of this enactment, being beyond the scope of the preamble, require to be looked into before any support could be forthcoming for it in this House. Take, for instance, the Act passed by the local Legislature of the United Provinces of Agra and Oudh. This was especially confined to the powers to deal with instigation to the illegal refusal of the payment of certain liabilities.

**The Honourable Sir Brojendra Mitter** (Law Member): I rise on a point of order, Sir. May I ask, Sir, whether what the Honourable Member is now arguing is not covered by the ruling given by the Chair?

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Chair is sorry that an experienced Member should persist on a point like this. It is a very regretful fact indeed. The Chair has repeatedly said and would repeat it once again that it is not open to any Honourable Member of this House to question the validity of the enactment of a local Legislature. Is the Honourable Member attempting to do that?

**Sardar Sant Singh**: All right, Sir, I will give up this point. I will proceed to my next point. My next point is with regard to clause 2 of the Bill. Coming to clause 2 of this Bill, we find that this clause purports to concede the right of appeal to the High Court of Judicature at Fort William in cases of certain sentences having been passed under the Bengal Public Security Act; and, in this clause, what we find is that instead of allowing the period of appeal to be the same as it is allowed in ordinary cases, the limitation of the period has been restricted to 30 days, while in ordinary cases, as I understand it, the period allowed for a direct appeal to the High Court is 60 days. I do not understand why this period should be restricted in this particular instance.

Clause 3 of the Bill is far reaching in its effects. Very wide powers are given under these local Acts in the sections mentioned in this clause to the executive. I presume, Sir, that these powers will be exercised in accordance with the provisions of the Acts passed in these local Legislatures. This is the least we are entitled to expect. There is no doubt that these powers are very vast and extensive. They are of the nature which restrict not only the liberty of speech, but also the liberty of person as well as of property. If such vast powers are given to the executive, it is but fair to expect that the executive will exercise those powers in accordance with the provisions laid down in the enacting measure itself. But if these powers are exercised in a manner which is not contemplated by the provisions of these Acts, my submission is that the jurisdiction of the Civil Courts, and specially of the High Court, should be kept open to examine the acts of the executive. But here, not content with barring the jurisdiction of the subordinate Civil Courts, the Government, through this Bill, proceed further to grant them protection even from the jurisdiction of the High Courts. This particular aspect has its own moral and that is that the executive authorities in India seem not to repose that confidence in the Judges of the High Court while daily preaching respect for law. This untiring effort to inculcate respect for law is very admirable, but the executive should understand that respect for law can only be inculcated if the country is governed by rule of law. However, this is beside the point. Resuming my argument, let us consider section 15 of the Bihar and Orissa Act. This section reads as follows:

"No suit, prosecution, or other legal act or proceeding shall lie against any person for anything which is done in good faith or intended to be done under this Act."

But in other Acts, for instance, in section 29 of the Bombay Act, we find:

"Except as provided under this Act no proceeding or order taken or made or purporting to be taken or made . . . . . shall be called in question by any court, and no civil or criminal proceeding shall be instituted against any person for anything done"

This Honourable House will notice that good faith is omitted:

“or in good faith intended to be done under this Act.”

That is to say, this section extends protection to the official for everything done, whether done in a legal manner or in an illegal manner, done within his jurisdiction or in excess of his jurisdiction or even without any jurisdiction. The position is that while, in the Bihar and Orissa Act, there is a restriction placed that the act should only be protected, if it is done in good faith, in the Bombay Act, this qualification does not exist. Similarly, in section 14 of the U. P. Act, the same phraseology is used and here too the slight protection given by the words “in good faith” does not find any place. Apart from the objection whether the protection extended is full or slightly qualified, the most crucial objection to such provisions is that such provisions grant indemnity for acts which, at the time of granting indemnity, had not been committed. The principle of granting indemnity to those officials, who may have been called upon to act in an emergency, is that such officials were called upon to meet an unusual, probably ugly, situation. Before the Legislature puts its seal of approval to the Indemnity Act, the Legislature has the fullest opportunity to examine the situation that had arisen and which the servants of the State had been called upon to handle. Thus indemnity always follows the emergency that called forth the doing of the acts to be indemnified. But this Bill gives a blank cheque to the executive authority; protection is given to him before he has done any act. Man is man, Sir; when he knows that his acts are protected, this very knowledge will, in all probability, make him irresponsible. There will be practically no control over him. The present measure practically bars the jurisdiction of the High Courts to question these illegal acts. How far it is desirable that such a protection should be extended specially in these cases where the measure is an extraordinary measure and places vast powers in the hands of an irresponsible executive, is for this House to determine. Coming to clause 4, it is said:

“No proceeding or order purporting to be taken or made under the Bengal Public Security Act, 1932, shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything in good faith done or intended to be done under the said Act or against any person for any loss or damage caused to or in respect of any property whereof possession has been taken under this Act.”

This clause, Sir, is divisible into two parts. The first part bars the jurisdiction of all Courts from examining the legality or otherwise of the proceedings taken or order purporting to be made under the Bengal Public Security Act. Now, looking at the wording of this clause, it is clear that even the phrase “proceedings or order” is not preceded by a qualifying word “lawful”. If it is said that “no proceedings or order purporting to be taken or made under the Bengal Public Security Act shall be called in question by any Court”, then there should be some qualifying phrase “in the discharge of lawful duty” or some similar expression which would restrict the provision to the official act of the person doing it. There is no such restriction, so that the Court is deprived even in those cases where the executive authority goes beyond its power in enforcing the provisions of the Bengal Public Security Act. Similarly, Sir, the second part is open to the same objection which I levelled when discussing clause 3, in that there is no restricted protection, but very wide protection is afforded.



[Sardar Sant Singh.]

Now, I come, Sir, to clause 5. The powers of the High Court of Judicature at Lahore are to be restricted under this clause. There is only one provision in the Criminal Procedure Code and that is section 491 which gives a remedy to the subject to question the right of the Executive intern-ing or arresting a person without any lawful reason. Section 491 of the Criminal Procedure Code reads, Sir:

“Any High Court may, whenever it thinks fit, direct—

- (a) that a person within the limits of its appellate criminal jurisdiction be brought up before the Court to be dealt with according to law;
- (b) that a person illegally or improperly detained in public or private custody within such limits be set at liberty;”

These are the only two provisions relevant to my argument. Now, here, if the detention of the person under the Public Security Act is lawful, certainly High Courts cannot interfere under sections 491 of the Code of Criminal Procedure, but if the detention is illegal, I see no reason why the jurisdiction of the High Court should be barred by enactment of such a provision in this Act. The most important provisions in all the Provincial Acts are those where the executive is authorised to arrest any persons, to detain them without trial for 15 days, and under certain circumstances such detention can be extended up to two months without any trial, release them under certain conditions, such as, reporting to the police and so forth, etc., which are very humiliating conditions indeed. This extensive power of detention without trial for such a long period as two months requires to be checked by some competent authority. The only competent authority is the authority of the High Court. I do not think that this provision can control the power possessed by the Calcutta, Bombay and Madras High Courts. These High Courts can issue writs of *habeas corpus* without any reference to section 491 of the Criminal Procedure Code. But the only provision under which the writ of *habeas corpus* can be issued by the Lahore High Court is section 491 alone. Why this step-motherly treatment with this province, the Punjab. If a person is detained illegally or improperly in Bengal, he has a right to move the High Court in spite of the restrictions contained, in this clause, but if the unfortunate man happens to belong to the Punjab, then this special provision will exclude all remedies. Therefore, Sir, I strongly protest against the enactment of such a provision in the present Bill. Looking at the provisions of this Bill, Sir, as I have tried to explain to the Honourable Members of this House, my submission is that, with the exception of one healthy provision, and that is clause 2, where the right of appeal is allowed to the High Court, the rest of the Bill is of a highly repressive character. The Government of India decided to bring a restrictive measure before this House which was passed in the November Session. The remaining provisions of the Ordinances were left to be enacted by the local Legislatures. The Government of India want to enact another repressive measure under the guise of a supplementing Bill. My submission is that this House will be betraying itself before the public if it becomes a party to enacting such a repressive measure. Therefore, Sir, I oppose this Bill.

**Mr. S. G. Jog** (Berar Representative): Sir, I find I am in no way concerned very materially with the measure which is before the  
3 P.M. House. This Bill is meant to supplement the provisions of the Bengal Public Security Act, 1932, the Bihar and Orissa Public Safety Act, 1933, the Bombay Special (Emergency) Powers Act, 1932, the United

Provinces Special Powers Act, 1932, and the Punjab Criminal Law (Amendment) Act, 1932, for certain purposes. I must congratulate myself that the Central Provinces as well as my province of Berar are outside the scope of these provisions. I must in a way congratulate my province that there is absolutely no necessity for these special measures there and I must thank the Government of the Central Provinces and Berar that my province is saved the trouble of coming up before this House for any such supplementary legislation. I cannot understand why my friend, Sardar Sant Singh, has taken objection to certain provision in this Bill. This provision wants to give powers to High Courts in appeal. I think whatever may be the propriety of the measures that have been introduced in the several provinces, as we are prohibited from starting any discussion of those provisions, I think the scope of our discussion is now limited only to the measure that is before this House at present; and as it gives a right of appeal, I think it is a very salutary provision that has been made in this Bill. As regards clause 4 in which jurisdiction is barred, I would like to take serious objection to it. These special laws take away the rights of the people in many ways; and it is possible that in many cases highhandedness is likely to take place. I see no reason why the ordinary indemnity should be taken away from the people. It is possible in many cases that the provisions of the law are not taken into account and in which lawlessness may be indulged in; and, if there are any irregularities or acts of wanton negligence or bad faith, I do not see any reason why the right of the people to take proceedings against the officers concerned should be taken away.

Coming to clause 5, as my friend, Sardar Sant Singh, has pointed out, there is no reason why his province should be treated in a different manner and why discretion should be utilised against his province. I see no reason why they have taken the case of the Punjab Criminal Law Amendment Act for exclusion for barring the issue of a writ of *habeas corpus*. There is no material before us to justify the provisions of this section. From the notes on clauses I find it is said there:

"This clause, on the analogy of section 491 (3) of the Criminal Procedure Code, bars jurisdiction under the powers conferred by that section in respect of action taken under section 2 of the Punjab Criminal Law (Amendment) Act, 1932."

I think, if this Bill is to be passed, the Punjab should be treated alike with the other provinces.

As regards the other provisions, I have to say that the right of *habeas corpus* is one of the fundamental rights which the people have got in this country and, before any right of *habeas corpus* is taken away, I think this House should consider twice and even thrice. It is a fundamental right and should not be lightly treated. If these provisions are taken away, including this one as regards the Punjab and also clause 4 which takes away the jurisdiction in regard to indemnity, I for one would like to support the Bill. But if these objectionable portions of the measure are allowed to remain, I have no alternative but to oppose the consideration of the Bill.

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, I oppose this motion, and my main reason is that the jurisdiction of Civil and Criminal Courts under clauses 3 and 4 are going to be ousted. Clause 3 reads:

"Section 15 of the Bihar and Orissa Public Safety Act, 1933, section 29 of the Bombay Special (Emergency) Powers Act, 1932, and section 14 of the United Provinces Special Powers Act, 1932, shall have effect as if these sections had been enacted by the Indian Legislature."

[Mr. S. C. Mitra.]

I shall refer to only one of those Acts to show what they mean. Section 29 of the Bombay Act, XVI of 1932, runs thus:

"Except as provided in this Act, no proceeding or order taken or made or purporting to be taken or made or deemed to have been so taken or made under this Act, shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything done or in good faith intended to be done under this Act or against any person for any loss or damage caused to or in respect of any property whereof possession has been taken under this Act."

The corresponding sections in other provinces provide for similar things. Clause 4 deals with a similar case for the province of Bengal. Yesterday, when we were discussing about the arrests in Bengal, the Honourable the Home Member made a very bold assertion. He stood up and said that there were the law Courts open. If these arrests are illegal, why do these people, who have been arrested illegally, if they consider to be so, not go to the Courts for getting any redress? Sir, the House will judge of the sincerity of the statement of the Honourable the Home Member when only within twenty-four hours he comes here and asks us to pass legislation that the Courts, whether Civil or Criminal, should have no jurisdiction to enter into the merits of these arrests.

I now refer to the Bengal Act, XXII of 1932. In section 1 (4) it says:

"The Local Government may by notification in the Calcutta Gazette, direct that all or any of the provisions of Chapters II, III and IV shall come into force in any area on such date as may be specified in the notification:

Provided that the Local Government shall not direct that any provision of these Chapters shall come into force in any area unless it is satisfied that by reason of a movement subversive of law and order a state of emergency has arisen in that area of such a kind that the existing powers of Government are inadequate for the maintenance of the public security."

Though under this Statute it is clear that only in case of emergency this legislation can be applied, we know for certain, that there was no case of emergency for banning the holding of the Congress in Calcutta. Even if Government think that they were called upon to take some steps, there were the ordinary sections, sections like 144 of the Criminal Procedure Code, by which they could adequately deal with it. We maintain that there was no emergency and now, if anybody has to go to a Court of law, whether it is a Civil Court or a Criminal Court, he would be precluded by the present Bill to show that there was no emergency and as such the application of the Public Security Act, 1932, was illegal and unwarranted.

Now, by these peculiar laws which the Honourable the Home Member asked us within 24 hours to pass, they will have no right to go before any Court to seek redress against the illegalities of the Police. I hope the House will judge for itself the assertions of the Honourable the Home Member if he cannot properly satisfy them that these safeguards, that we have, are really illusory and now the executive here in India are determined to do anything they like most arbitrarily without caring in the least for the Courts of law or for the Legislature. They know that they can get anything passed in this House, and there is no safeguard. If there are any necessity for safeguards for anybody, I think the judiciary in India require to be protected from the onslaught of the arbitrariness of the executive. If this House willingly passes a law like this against which there will be no remedy, a law against which we cannot even have a judgment from the Courts to rectify the lawlessness of the executive,

I do not know where we are being driven to. We have discussed more than once here about the right of *habeas corpus* of the High Court. In clause 5, that power is being denied to the province of the Punjab, and I know that our leaders in this House, who are well versed in International Jurisprudence, will argue that point, but looking merely from a common sense point of view, I feel that the Government should see that the law should not be degraded to such a position that no man will have any respect for it. Already under the provisions of these sections of the Public Security enactments in different provinces, people are imprisoned for six months and are fined Rs. 50 and more. Sir, this is a supplementary measure, and so I think I shall not be out of court to discuss some of the provisions of this enactment. I could not clearly follow your ruling. If it is to that purpose, I shall not in any way deal with those sections, and I shall abide by your ruling . . . .

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Honourable Member is at perfect liberty to discuss the sections of a local Act so far as they are relevant to the present Bill. The ruling given by the Chair was that the validity of any Act passed by the local Legislature could not be questioned.

**Mr. S. C. Mitra:** I am glad to have your ruling, but as regards the validity, I was looking through the Manual of Business and Procedure carefully, and I could not find anywhere that this House was debarred by the rules and regulations from criticising any law already passed by any Provincial Legislature. However, I bow to your ruling, and I shall not discuss that matter. But may I draw your attention, Sir, to the fact that there is no provision anywhere to show that this House is debarred from criticising the Acts passed by any Legislature . . . .

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Honourable Member is at liberty to criticise the sections.

**Mr. S. C. Mitra:** But I cannot say that they are *ultra vires*. I hope that is the position. My contention was that from the very beginning there was no necessity for passing such a drastic legislation as this, thus lowering the prestige of the law itself. When a man is sent to jail, it is not the hardship that he is afraid of, but the moral degradation which such a sentence attaches to the man is the thing that one is afraid of. Now, Sir, if very respectable and Honourable gentlemen with most honest intentions want to discharge their public duties, and if they differ from the executive under these peculiar laws now enacted everywhere, they are sent to jail, and if ever they make an attempt to show that there is nothing wrong in their action, the executive is providing legislation to see that they do not get any remedy from any Court, Civil or Criminal, in the country. Whatever is done by the executive must be taken as sacrosanct, and nobody can question the correctness or legality of these sections. I maintain, Sir, that by passing such legislation, the main purpose of enacting laws is being frustrated. For these reasons, Sir, I oppose the consideration of this Bill.

**Mr. Lalchand Navalrai** (Sind: Non-Muhammadan Rural): Sir, I will approach this measure from an entirely legal aspect. I find that in clause 4 of this Bill it is intended to safeguard the executive against any action being taken by a person who has suffered unjustly at their hands.

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This is really against the very fundamental principle of law, in fact it is against all canons of British justice, or for the matter of that, the justice of any civilized country, that the aggrieved person should not be given a chance to vindicate himself. If an enactment like this is passed, Sir, I submit, you will be doing a thing which will be unprecedented in the annals of any country. This is so far as the legal aspect is concerned, but so far as the social life is concerned, I submit that, by enacting a provision like this, the Government will be striking at the very root of all social order, and it will certainly recoil on the Government themselves. Now, in clause 4 of this Bill it is stated :

"No proceeding or order purporting to be taken or made under the Bengal Public Security Act, 1932, shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything in good faith done or intended to be done under the said Act or against any person for any loss or damage caused to or in respect of any property whereof possession has been taken under the said Act."

It may be urged that Government are always fair in these matters. But it is stated here "if any act is done in good faith",—what is the implication of it? Supposing a person has been injured, and he wants to vindicate and wishes to go to Court. How can he do that? He can go to the Court only in two ways—either he will have to go to a Civil Court and question the validity of the act done. This man will be the plaintiff there, and when the question is raised whether the act done was in good faith or not, I would ask the Honourable the Law Member to say if the burden would not be on the plaintiff. The Government will of course urge that they have done the act in good faith, and, therefore, in the first place, the burden will be on the poor plaintiff to prove that it was not done in good faith. He will be put to prove the negative. How hard? Then, Sir, coming to the question of proof itself, how difficult will it be for a man to prove the negative. It would be easy for the Government to put one or two officers into the box and say that they had done it with due care and caution which is the meaning of good faith. Thus there will be so much harm done to the public and I think it will be worth while for Government to reconsider their position and not press such a measure.

Coming to clause 3, it affects my own Presidency of Bombay as well. In that clause it is said that section 29 of the Bombay Special Emergency Powers Act shall have effect as if these sections had been enacted by the Indian Legislature. Now, going through that section 29 of the Bombay Act, we find,—I will not read the whole section, but only a portion which appears to me to be technically wrong—there also it is said that no action in respect of any civil or criminal proceeding shall be instituted for any damage or loss. I understand that the object of the present Bill is only to bar the jurisdiction of the Bombay High Court to take proceedings in respect of any harm done to any particular person. Now, in the first place, I submit, it is absolutely wrong to deprive the High Court of its powers. Secondly, the High Court is going to be reduced to the position of being dominated by the Provincial Government. I know, in the new Constitution also the High Court is not subject to the domination of the Provincial Government. Therefore, the attempt to make the High Courts subservient to the Provincial Governments is absolutely wrong and uncalled for.

Then, coming to clause 4, I find, it says that no civil or criminal proceeding shall be instituted against any person for anything in good faith done or intended to be done under the said Act or against any person for

any loss or damage, and so on. This would mean that if an Act is done or intended to be done in good faith, the Government will remain protected. So far as Bengal and other provinces are concerned, their local Acts provide similar terms, *viz.*, good faith will be a condition precedent in both cases when an act is done or is intended to be done. So far as Bombay is concerned, the local Act gives shelter to acts done or in good faith intended to be done, meaning that in case of act done even *mala fide* the protection exists. I think this could not be the intention of the local Legislature. Possibly the words have been wrongly used in drafting. At any rate when this section of the local Act is going to be adopted as a measure of this Indian Legislature, Government should be very careful to see that the intention to require good faith in acts done also is clearly brought out, and I hope the Honourable the Law Member will give me a very explicit and definite reply as to whether it is really the intention of this section to require *bona fides* for an act done as well.

Then comes clause 5. I think such a clause has been debated in this House so often that it is not necessary to take up the time of the House by repeating those arguments. To put the matter in a nutshell, my submission is, that under that section powers given by section 491, Code of Criminal Procedure, are being taken away from the High Court. So far as that section 491 of the Criminal Procedure Code is concerned, it is an enactment made by the Government of India and no doubt that enactment can be changed by the Government of India, but it is quite plain that as already pointed out under section 107 of the Government of India Act, the High Court has similar power to interfere and use *habeas corpus* procedure, apart from and in spite of a section like this barring the remedy of the High Court under section 491, Code of Criminal Procedure. It was for this reason that in the former Bill as regards the terrorists an amendment was made that the provisions of section 107 of the Government of India Act were not superseded by an enactment like this. I should like to have a clear statement from the Honourable the Law Member on this point also. What I submit is this that section 107 of the Government of India Act is one which cannot be superseded by the present proposed enactment. We do not, however, find such a reservation in this Bill. So we want to know clearly whether the intention is that section 107 of the Government of India Act will be affected or will remain intact.

With regard to the Punjab and Sind, section 107 of the Government of India Act does not apply to Courts which are not chartered High Courts. Of Course the Punjab Court is a Chartered Court now, but when section 107 was made, that Court was, I believe, not a Chartered High Court. So far as Sind is concerned, where we have got no Chartered High Court, as the High Court of Bombay is at a distance from Sind, powers have been given to the Judicial Commissioner's Court there to do all the acts more or less of the High Court; and so far as certain remedies are concerned, the Sind Court is considered to be a High Court, and it exercises many of the provisions of law; but so far as this *habeas corpus* is concerned, it has got no power under section 107, Government of India Act, but has power under section 491, Code of Criminal Procedure. Therefore, I should feel aggrieved because this provision is being extended to the Bombay Presidency also,—and then, the Bombay Act can be extended to Sind. I do not know whether it has been by this time extended or not, but if this Bombay Act is extended to Sind, we will be put to very great difficulty indeed, as the High Court will be really a name-sake High Court so far as *habeas corpus* proceedings are concerned. The High Court in

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Sind will not then be able to give any relief to any man who is arrested wrongly. I would, therefore, humbly submit that so far as this section is concerned, it should not be made applicable to Bombay. With these words, Sir, I resume my seat.

**Sir Abdur Rahim** (Calcutta and Suburbs: Muhammadan Urban): Mr. President, the main questions of principle raised by this Bill have been very fully debated on a previous occasion, and if I rise to speak now, I do so simply to register a protest on behalf of Honourable Members on this side of the House on the ground that the conditions in India have not changed so as to necessitate the passing of this measure. We contended before that the provisions of the character embodied in the Bill are so wide and sweeping as to destroy the ordinary rights and liberties of citizens of this country, and that they are not justified by any movements like the civil disobedience movement or the terrorist movement of Bengal.

Sir, we have been told, at any rate we were told on previous occasions by the Honourable the Home Member, that the Government were pursuing a dual policy. At that time I ventured to point out that there could be no such thing as a dual policy. Either you are pursuing a policy of repression, by tightening the laws and narrowing the liberties of the people, or you should pursue a policy of conceding greater liberties and rights to the people. Either one or the other. Since then, we have had the White Paper presented to this House; and, if there is in these laws the policy of repression in evidence, I think the Honourable the Home Member will find it very difficult to satisfy the House that the other complement of the dual policy is that contained in the White Paper, namely, a policy of conciliation, and of granting self-government to the people. Unless he justifies the proposals of the White Paper as the sister policy—the policy of widening the liberties of the people, of widening the bounds of self-government, the whole argument of the so-called dual policy at once falls to the ground. I wonder if the Honourable the Home Member is prepared to assure us that this White Paper is not all, there is the Joint Select Committee, there is the Parliament, so that we still may have some measure far more liberal than the proposals contained in the White Paper. I am afraid the position is not at all satisfactory, and I do not think the Honourable Member will take up an attitude of that character. Now, it is for some time that India has been passing through what is called emergencies. I do not know when India will emerge from it, but I do repeat once again what I have said repeatedly before, that there is no justification for passing measures of this sweeping character. The other day, we had one signal instance in which a large number of very well-known and eminent citizens of India going to Calcutta to attend a meeting of the Congress were arrested on their way, and I then put the question whether those arrests were justified by law. Sir, section 3 (3) of the Bengal Security Act, which was referred to by the Honourable the Home Member, to my mind does not justify the arrests, because there was no question of there being any proof that these gentlemen were proceeding to Calcutta or proceeding to the meeting with the intention of committing an offence. Now, Sir, arrests of that character are in fact not justified by law whether these gentlemen belonging to the Congress raised the point in a Court of law or not. I know that as a matter of fact, they do not like to enter upon any defence, but that can make no difference

to the case. The question is whether the arrests were legal or not. Now, it is law of this vague and sweeping character that permits arrests of this kind—arrests which really no Court of law would, under the provisions of this short Bill, be able to say whether they were really justified or not. Take clause 4 of this Bill. The jurisdiction of the High Court, for instance, to revise an order, an order which is not appealable, is taken away. The Honourable the Leader of the House and the Law Member will, I am sure, advise the Honourable the Home Member that it is these orders, these sentences and convictions which are not appealable that often involve most important questions of law and jurisdiction. The High Court will be unable, under this provision, to revise any order, conviction, or sentence, which does not come within the category of clause 2 that gives the right of appeal in a certain class of cases. For all effective purposes, it is only when an order or sentence is passed by a Presidency Magistrate that there will be any appeal. In the other cases, that is to say, cases tried outside the jurisdiction of the Calcutta High Court, an appeal lies only when a sentence above four years is passed by a Special Magistrate and those must be in very few cases indeed. But in the other cases there is no right of appeal and the right to invoke the revisional jurisdiction of the High Court, a most important and useful jurisdiction, has been taken away.

Now, Sir, the principle underlying clause 5 was also fully discussed on the previous occasion. What I wish now to point out is this. The objection which, I believe, I took at that time was that, suppose an order or sentence was passed which was not in accordance with the provisions of this Act, in other words, it did not conform to the provisions of this Act, would it be open to the High Court, under section 491 of the Criminal Procedure Code, to revise such an order?

[At this stage Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) vacated the Chair which was occupied by Mr. Deputy President (Mr. Abdul Matin Chaudhury).]

If an order is passed which does not conform to the provisions of any of these Local Acts, will it be open to the High Court to revise that order, to set it aside, for instance, an order detaining a person for 15 days or for two months? If the conditions precedent to the passing of such an order were not satisfied, would it then be open to the High Court to set aside the order?

**The Honourable Sir Brojendra Mitter:** Undoubtedly.

**Sir Abdur Rahim:** Then, according to the terms of clause 5, the High Court could not exercise its powers under section 491 of the Criminal Procedure Code, because that is expressly taken away. I think a similar point was raised on the other occasion as well and the same difficulty will be repeated if clause 5 is retained in its present form. I know it will serve no useful purpose by debating this Bill any further in this House. I simply wanted to enter my protest making it clear that the conditions have not so changed that we should be justified in revising our opinion on this or similar measures.

Sir, I oppose the motion.



**Mr. O. C. Biswas:** Sir, I regret I cannot agree with some of my Honourable friends who have spoken before me. Sir, it seems to me we have travelled very far away from the point which is before us. The question in my judgment which the House is called upon to consider is a comparatively narrow one. We have got to take note of certain facts. The most important of these is that the local Legislatures in different provinces have accepted responsibility for the legislation which you find embodied in the local Acts, copies of which have been circulated. The question of policy underlying those enactments is not one which it is necessary for us to discuss. All that we are concerned with is whether or not this House should agree to implement and supplement the provisions of those local enactments in the way suggested in this Bill.

Sir, let us turn to the provisions of the Bill before us and let us see what it seeks to do. In the first place, you will find in clause 2 that a right of appeal is given to the High Court in certain specified cases against sentences passed by Special Magistrates. As the Honourable the Home Member pointed out, this is a provision peculiar to Bengal, because if you study the provisions of the local Acts, you will find that the Bengal Act is the only one which has provided for trial by a certain class of Special Magistrates. You will not find this in the Bihar and Orissa Act, in the Bombay Act, in the Punjab Act or in the United Provinces Act. I ask my friends whether this is or is not for the benefit of the persons who may be tried, found guilty and sentenced under this Act. I should be sorry to think that by our action here we should be doing something to deprive these persons of a right of appeal. The only complaint which I heard about this clause is that the period of appeal was limited to 30 days. After all, Sir, that is not a very serious grievance. We must not forget the object of this special legislation. The whole idea is to secure a speedy trial, and, if that be so, I for one see no objection, if we restrict the period of appeal to 30 days only.

Then, Sir, I come to the next two clauses, clauses 3 and 4. I will take the liberty to point out at once that clauses 3 and 4, although they are separate clauses, really cover the same ground. As the Honourable the Home Member pointed out, it was necessary to enact clause 4 separately because of the special proviso which was embodied in the Bengal Act (section 27), the proviso being that nothing in this section shall affect the jurisdiction of the High Court. That proviso does not find a place in the other local Acts. Although that proviso was there, it was made perfectly clear in the Bengal Legislative Council that the Government of Bengal would seek powers from this House to bar the jurisdiction of the High Court. Now, Sir, let us see if there is any special objection to taking away jurisdiction from the High Court. Well, the High Court exercises original jurisdiction and appellate jurisdiction. So far as appellate jurisdiction is concerned, it arises only out of proceedings taken in the subordinate Courts in the districts. If no proceedings are or can be initiated in those Courts, there is no occasion for the exercise of the appellate or revisional powers by the High Court. Now, Sir, suppose this Bill was not passed at all, and we were confined to the local Acts, what would have been the position? The local Acts, as they stand, are quite effective for the purpose of taking away the jurisdiction of the district Courts, that is to say, the Courts in respect of which the Provincial Legislatures are competent to legislate. There can be no proceedings in

these Courts, Civil or Criminal, in respect of the acts which those enactments are intended to protect. If that be so, it follows that there can be no question of involving the original or appellate jurisdiction of the High Court.

**An Honourable Member:** Why not?

**Mr. C. O. Biswas:** Because, Sir, unless there are proceedings in the lower Courts, there is no occasion for the High Court to interfere by way of appeal or by way of revision. Appeal means appeal against a judgment or order passed by an inferior subordinate Court; revision means revision of an order passed by an inferior or subordinate Court. If the inferior or subordinate Courts are debarred from entertaining suits or proceedings of the description contemplated in the various sections of the local Acts which are referred to in clauses 3 and 4 of the Bill, how can the High Court possibly come in?

**Mr. Lalchand Navalrai:** My Honourable friend knows that there is section 489 in the Criminal Procedure Code which gives power to the High Court to call for papers or proceedings from any Court.

**Mr. C. O. Biswas:** Quite right; I do not forget that for a moment. If there is a proceeding possible in a lower Court, the High Court can no doubt step in in proper cases, either under section 485 or under section 489. I do not at all dispute that proposition, but what I am suggesting is that there can be no occasion for the exercise of the High Court's appellate or revisional authority, if by virtue of local Acts there can be no proceedings at all in the lower Courts in respect of the matters dealt with in those sections of the local Acts.

**An Honourable Member:** There is section 622.

**Mr. C. O. Biswas:** I do not forget that either. But there is no section 622 in the present Civil Procedure Code.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions: Non-Muham-madan): Section 115.

**Mr. C. O. Biswas:** Yes, section 115. That, again, presupposes that there must be some proceeding pending in the subordinate Civil Court. The High Court cannot act *in vacuo*, in the air. There must be something pending in the inferior or subordinate Courts, and then the High Court may either *suo motu* or, at the instance of the aggrieved party, call for the proceedings, revise the orders, or pass such other orders as the High Court may think fit. That is the position, but the point I wish to make is this. We cannot here question for one moment the factum or validity of the local Acts. The local Acts are there, and the local Acts being there, we have got to face the fact that no proceedings can be taken in the district Courts against any person for any act done or purporting to be done under these Acts. If that be so, that automatically takes away the appellate and revisional jurisdiction of the High Court. Then the question remains,—granted that is so, why go further? Why take

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away the original jurisdiction of the High Court also? Sir, that may be a good debating point, but I ask you seriously to consider whether there would be any justification for making a differentiation between cases which would come within the purview of the original jurisdiction of the High Courts and cases arising outside such jurisdiction. Sir, if these acts are committed, if the arrests or detentions, for instance, take place, within the jurisdiction of the mufassil Courts,—I do not know if this word “mufassil” is used in the other provinces but it is used in Bengal to denote jurisdiction outside the Presidency town,—if, I say, such cases arise within the mufassil, and the jurisdiction of the mufassil Courts is barred to entertain any suits or proceedings in respect thereof, I ask, why should you make a differentiation in favour of similar cases which may arise within the original jurisdiction of the High Courts in the Presidency towns themselves?

**Mr. Lalchand Navalrai:** Then, I ask, why this section?

**Mr. C. C. Biswas:** My friend asks, why this section then? I believe the remarks I have made offer an answer. The object is to remove such differentiation. The object is to place cases arising within the jurisdiction of these Presidency towns on the same footing as those outside those towns. That is all. If, in the mufassil, the Courts are debarred from interfering, so also must the Court be debarred from interfering within the Presidency towns. That, I submit, is the position which is obvious on the surface. And if you accept the position which you find created by the local Acts, there is no answer to this provision which only seeks to assimilate the position in regard to Presidency towns to that in the rest of the provinces.

Then, Sir, coming to clause 5, that takes away the power of the High Court under section 491, the *habeas corpus* section. Sir, as speakers who have gone before me have pointed out, this question of *habeas corpus* has been discussed on the floor of the House times without number, and I do not propose to go into the legal aspect of the matter again. But it seems to be rather curious that you have this provision only regarding the Punjab. As a matter of fact, attention was drawn to this by some of my friends. I do not know what the explanation is, but possibly it is this that so far as the Calcutta High Court is concerned, various applications under section 491 were made to that High Court under the Public Security Act and also under similar enactments prior to that Act; and in every instance, I can say without fear of contradiction, in every instance the High Court has held that section 491 had no application. Whenever an application was made, they often issued a rule no doubt, but invariably and without exception, the rules were discharged on the ground that section 491 did not apply. Possibly, Sir, there is no such authoritative judicial pronouncement in the Punjab, and that is why special statutory provision has been found necessary for that province.

Sir, as a matter of fact, you will find that the immunity granted by this Bill as well as by the local Acts is simply this. It is an immunity in respect of acts done under the local enactments. My friend, Sir Abdu Rahim, asked, if the act is illegal, for instance, if the arrest is illegal, what happens? If it is illegal, it is not covered by the enactment at all. It is

something outside the scope of the Act, and, therefore, the jurisdiction of the High Court, the jurisdiction of the Civil Courts, will be still open. If the act is done or purports to be done *under the Act*, then and then only the immunity comes into operation.

**Mr. K. C. Neogy:** Will the Honourable Member give us an imaginary instance in which such a thing is possible?

**Mr. C. C. Biswas:** Suppose the question is raised that this local enactment is outside the jurisdiction of the local Legislature, the question which my friend, Sardar Sant Singh, raised. There, I submit, notwithstanding these clauses, notwithstanding the provisions of the local Acts, the Courts will be entitled to go into the question, and if the Court came to the conclusion that the Act was really *ultra vires*, then the proceedings would be illegal and they would be devoid of legal justification.

**Mr. K. C. Neogy:** Is that all?

**Mr. C. C. Biswas:** My Honourable friend asked for an instance: I gave him one.

**Mr. K. C. Neogy:** Can you conceive of a few more? This gives scope for only one suit.

**Mr. C. C. Biswas:** All that I am concerned to show at this moment is this, that it is only in respect of acts done or purporting to be done *under the Act* that this immunity clause is meant to operate. If the act is not one under the enactment, then of course the jurisdiction of the Courts is not taken away. I may be wrong, but that is the view I hold. As I began by saying, the responsibility for these local enactments has been taken by the Provincial Legislatures. Rightly or wrongly, they have passed these Acts. The sole question is, whether we are going to make those provisions effective. In regard to certain matters they could not legislate, because they affected the jurisdiction of the High Courts. Therefore this House is called upon to intervene. That is all. If we were discussing

4 P. M. this question for the first time here, if this House were a Local Legislature, we should no doubt have been justified in discussing the question of policy. I think, Sir, in every one of the Provinces the question of policy was fully discussed and discussed at great length, and these Acts were passed after such discussion by a majority. If, then, these Acts are there, should we or should we not be justified in withholding our assent to the present Bill which seeks no more than to supplement those provisions—in order to make them effective, in order to make the position uniform in regard to certain matters and in order also to provide a right of appeal in certain cases. I shall refuse to be tempted, though the temptation is very great—to go into the question of policy.

**An Honourable Member:** It is a reversion of social order.

**Mr. C. C. Biswas:** This Bill, it is said, is a reversion of social order. But we have got to face the facts. Who are the persons, Sir, who are responsible for producing a reversion of social order, a state of social anarchy in some of these provinces? It may be very well here to stand

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up in your place, Sir, and say: "This Bill represents a negation of liberty, a negation of social order", and so on. But what led to these enactments? What is the situation, and who created that situation, which these Acts are intended to meet? That is the question we have got to face, and face squarely. I do not wish to go into the dark and dismal chapter of Bengal's history—I do not know as much about the other provinces,—but, Sir, the sooner we can draw a veil over it, the better it is for all concerned. (Applause from the Official Benches.)

**Mr. Muhammad Muazzam Sahib Bahadur** (North Madras: Muhammadan): Sir, it seems that we have been travelling outside the limits of the present debate. As I can see this Bill, it is intended to supplement certain enactments which have been passed in five of the local Legislatures. So far as territories directly administered by the Government of India themselves are concerned, we have already provisions of this type prevailing in those territories. But so far as these five provinces are concerned, these local enactments want additional powers, so that they may be in a position to derogate, as it were, from the powers vested in the High Courts in the respective provinces. That is the attempt which is sought to be made by the present Bill.

So far as the question whether this House has powers to derogate from the powers of the High Court, there has already been a definite decision to that effect, and it was clearly pointed out by the Honourable the Leader of the House that the High Courts possessed derivative powers and not Sovereign powers. They derive their powers from three different sources, from the Criminal Procedure Code, the Letters Patent and the Government of India Act. In regard to the first, the Code of Criminal Procedure, he had pointed out that it was an enactment of this Legislature and, as such, it can be repealed, altered or modified in any way this Legislature liked. With regard to the second, the Letters Patent, it was also pointed out by the Leader of the House that the Letters Patent themselves gave to the Indian Legislature the power to alter the Letters Patent. Lastly, it was pointed out that the powers conferred by section 107 of the Government of India Act were powers which gave the High Court superintendence over all the Courts subordinate to it, and a provision of the kind which found a place in the Ordinance Bill which came up before this House in November, rather was passed in December, was not a violation of section 107 of the Government of India Act, in view of the fact that section 65 of the Government of India Act conferred very wide powers on this House to pass legislation of this type. Therefore, I need not enter into the propriety for the enactment which we are called upon to apply to certain provinces. The only question is whether there is a necessity for supplementing or rather implementing the local provisions by extending to them the powers which they seek from this Legislature. Sir, it was pointed out by my Honourable friend, Mr. Lalchand Navalrai, that the power of *habeas corpus* was a power inherent in the High Courts, and as such it could not be taken away. My submission is that that is a power which has been specifically granted to High Courts by section 491 of the Criminal Procedure Code and that is an enactment which is the creation of this Legislature and as such this Legislature has got perfect liberty to take away the power which it has granted.

**Mr. Lalchand Navalrai:** My Honourable friend will excuse me if I say that what I referred to was with regard to section 107 of the Government of India Act. With regard to section 491, Criminal Procedure Code, I myself said that that power could be restricted by this House, but not that of section 107 of the Government of India Act.

**Mr. Muhammad Muazzam Sahib Bahadur:** I beg my Honourable friend's pardon if I misunderstood him in that way. I thought he was referring to the powers of *habeas corpus*. Then, Sir, my Honourable friend, Mr. Biswas, to my mind, was mixing up executive acts with judicial acts. So far as I can construe the present Bill, I think the object of the present Bill is to exclude from the cognizance of all Courts executive acts which are done or purported to be done under this Bill. So far as judicial acts are concerned, they stand on a different footing. It is the appellate jurisdiction of the High Courts alone which is being excluded, and not the revisional jurisdiction. The revisional jurisdiction is there. If, under this Act, there is a prosecution for any offence punishable thereunder and that offence is tried by a subordinate Court, although the sections which are now sought to be enacted may derogate from the powers of the High Court, so far as the powers of appeal are concerned, the powers of revision, which are inherent in the High Court to call for the records of the inferior Courts and examine them, still remain and they continue.

**Mr. S. C. Mitra:** Do they?

**Mr. Muhammad Muazzam Sahib Bahadur:** That is how I consider them—I may be wrong. But so far as executive acts are concerned, they are absolutely outside the purview of the Courts. They cannot be decided upon in any Court.

**Mr. C. C. Biswas:** That is exactly what I stated.

**Mr. Muhammad Muazzam Sahib Bahadur:** Then, as regards the absence of "good faith" in the Bombay enactment, this is how section 20 reads:

"Except as provided in this Act, no proceeding or order taken or made or purporting to be taken or made or deemed to have been so taken or made under this Act, shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything done or in good faith intended to be done under this Act or against any person for any loss or damage caused to or in respect of any property whereof possession has been taken under this Act."

The words which have come in for criticism are these—, "for anything done or in good faith intended to be done". My submission is that those words apply as much to acts intended to be done as to acts done, because every act connotes intention and if you can prove that, so far as the intention was concerned, it had not the element of good faith attached to it, then the act itself is punishable as wanting in good faith, and, as I understand the legal definition of good faith, it is, as in the Penal Code, something which is done with due care and attention. That is the legal aspect of acts done in good faith. If the aggrieved party can prove to the Court that the intention which actuated the act of any public servant in respect of acts done under this enactment was wanting in good faith and if the public servant, when called upon to prove good faith, so far as his intention is concerned, is unable to do

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so, then, in the ordinary course of things, he would be liable to be charged for not having exercised good faith. If he does prove, then he escapes: so that the position is that the repetition of the words "good faith" or the placing of those words before "done" and not as they are before the word "intended" does not make any difference. With these words, I support the motion.

**Mr. S. C. Sen** (Bengal National Chamber of Commerce: Indian Commerce): Sir, I had no intention of intervening in this debate: and specially because when the Bill to supplement the Bengal Terrorist Act came before this House I took a very great part in that debate and said what was to be said in this matter. But I have to rise to congratulate my friend, Mr. Biswas, though I do not know whether my congratulations should go to Mr. Biswas or to the Home Member for having found so able an ally to espouse his cause.

This Bill can be divided into two parts: one which gives a power of appeal to the High Court from certain sentences and the second is the barring of jurisdiction of the High Court. As regards the first, I think it was not necessary as, in my reading, no offences, which the Special Magistrates will ordinarily be required to deal with, will not attract heavier punishments than two years. The Bill itself provides for offences under which six months' imprisonment can be inflicted. The Special Magistrates may also deal with offences against public security which is the same as public tranquillity as defined in the Indian Penal Code, but the highest punishment under that Chapter of the Penal Code dealing with public tranquillity does not exceed two years. However, as this clause is in favour of the accused, I do not object to its being in the Bill. But, Sir, as regards clauses 3 and 4. . . .

**The Honourable Sir Brojendra Mitter:** Will the Honourable Member speak up a bit? I cannot follow at all.

**Mr. S. C. Sen:** Now, Sir, as regards clauses 3 and 4, the Honourable the Home Member made a distinction between the two clauses, though they amount to the same thing. He wanted to bar the jurisdiction of the High Court so far as regards suits or proceedings for illegal or unlawful exercise of the powers given under the local Acts. It is not a case, as Mr. Biswas pointed out, where you impugn a local Act altogether as being *ultra vires* of the Legislature, but these clauses are put in to protect officers of Government even against illegal exercise of the powers conferred upon them by the Act. The local Acts have barred the jurisdiction of the local Courts, but the clauses in the Bill have been put to bar especially the jurisdiction of the High Court as regards such acts. So far as regards the Patna High Court or the Allahabad High Court, I do not think it matters much, because they have not got any original jurisdiction. But so far as regards the Bombay High Court, it has original jurisdiction, and, by this clause 3, it is intended to take out of the jurisdiction of that High Court cases arising out of or regarding the excesses committed by the illegal exercise of the powers.

As regards clause 4, as far as I understood the Honourable the Home Member, it is because there is a provision in the Bengal Act that the clause does not affect the power of the High Court, therefore he had to

put it in a separate clause. Now, let us understand what is meant by this clause 4: Mr. Biswas has said that as by the local Act the jurisdiction of the local Courts has been taken away—so far as regards claims or prosecution by the public is concerned,—therefore there is no reason why the jurisdiction of the High Court should not also be taken away. I do not understand the argument or the force of logic in that. There are many reasons why a local Court should not have any jurisdiction in a matter where big and intricate questions of constitutional law may arise, where the question of law as to whether a particular person has exceeded his jurisdiction or not will arise, but why should that not be left to the High Court? Not only the High Court is competent to deal with such matters far better than the local Courts, as a matter of fact, in the past, similar cases, though filed in the mufassil Courts, were transferred to the High Court under its extraordinary jurisdiction, and, therefore, I say that what is good for the local Courts may not be good for the High Court. Under these circumstances, I do not agree with Mr. Biswas that, because a local Act has barred the jurisdiction of the local Courts, therefore this House will follow the local Legislature and also bar the jurisdiction of the High Court.

Now, so far as regards the barring of the jurisdiction of the High Court, that has been done in a thorough manner and every matter, even section 107 of the Government of India Act is barred; and I say it is illegal and even *ultra vires* of this House to pass an enactment to that effect.

[At this stage Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) resumed the Chair.]

That question was discussed at the time when the Bill to supplement the Bengal Terrorist Act was taken up in this House; and your predecessor, Sir, held that it would be *ultra vires* of this Legislature to bar the jurisdiction of the High Court so far as conferred by the Government of India Act, and, for that purpose and to meet that point, the Leader of the House had to amend his Bill and had to add in section 5 of that Act the following proviso:

“Provided always that nothing herein contained shall affect the powers of the High Court under section 107 of the Government of India Act.”

But that has not been done in this case and, therefore, my point is this: that so far as this clause is concerned, *i.e.*, clause 4—it is *ultra vires* of this Legislature even to entertain this Bill, and, until that clause is omitted or deleted, you, Sir, will not allow that clause being debated in this House.

Then, Sir, the whole jurisdiction of the High Court is being barred. We all know the present state of things in Bengal. The Congress was to have held their meeting in Bengal. A month before we were told in this House that the Government of India, with the consent of the Secretary of State, had barred or was going to bar the holding of the meeting of the Congress in Calcutta. It was also asked how the Government were going to do it, and the Honourable the Home Member, if I remember aright, stated that it would be barred under the ordinary law. Is that correct, Sir?



**The Honourable Sir Harry Haig:** That is not my precise recollection of what I said. I said that I thought that it would have to be left to the discretion of the Local Government, but off hand I cannot be quite positive of what I said.

**Mr. S. O. Sen:** That is my recollection, Sir, that action would be taken by the Local Government under the ordinary law.

**The Honourable Sir Harry Haig:** Under such powers as they have.

**Mr. S. O. Sen:** Of course it is so, and they are not to invoke any new or special power. Now, we know what is contained in the local Act. Mr. Mitra has pointed out the circumstances under which the local Act, I mean Chapters II and III could be brought into play. I understand, certain persons have been arrested and these Chapters have been proclaimed in certain areas. Now, the proviso says that the Local Government shall not direct that any provision of these Chapters, namely, Chapters II, III and IV:

"shall come into force in any area unless it is satisfied that by reason of a movement subversive of law and order a state of emergency has arisen",—(*not likely to arise or will arise in the future*),—"has arisen in that area of such a kind that the existing powers of Government are inadequate for the maintenance of public security".

I do not know,—I hope the Honourable the Home Member will be able to answer that question,—whether the situation in Bengal is such at the present moment or was such at the time when that declaration was made under this section by the Government of Bengal as to justify the promulgation of the provisions of these Chapters in strict accordance with the local Act. I may say that there was no evidence at least before the public that the condition of the country was such as to necessitate the Government of Bengal to invoke these powers, and that consequently the arrests which have been made in pursuance of section 3 of the Act are illegal and *ultra vires*. How am I going to get redress? The whole procedure to obtain any relief has been barred. The Civil Courts in the local areas have been barred their jurisdiction. I could have done it in the High Courts so far as the persons who have been wrongfully arrested in Calcutta. I see the Honourable the Law Member is shaking his head, and I infer that he considers my argument wrong and that I can appeal to the High Court even now. I gather from his shaking of head that I can even now go before the High Court of Calcutta or before the Civil Courts and file a suit against the Secretary of State or his servants for their illegal action even though expressly their jurisdiction to entertain the suits is barred. I regret I cannot agree to that. If that be the position of law, then what is the necessity of putting these clauses barring jurisdiction of the Civil Courts. I can get no redress even if I prove that the action was an illegality. I shall have to prove that the action complained of was taken maliciously. That is the difference I want to point out, and I would ask the Honourable the Law Member when he replies to enunciate his proposition and show that I am wrong. In these circumstances, I submit that this House should refuse to accord its approval at least to sections 3 and 4 of this Bill. With these remarks, I oppose this measure.

**The Honourable Sir Brojendra Mitter:** Sir, as has been pointed out by my friend, Mr. Biswas, this Bill is intended to supplement the five Provincial Acts which are mentioned in the Bill. There is, I find, a certain amount of misconception as to the scope of these Provincial Acts. Broadly speaking, these Provincial Acts have three divisions: first, that certain powers have been given to the executive authorities; second, that certain new offences have been created, and the third division provides a machinery for the trial of those offences. Now, those Acts provide for the trial and punishment of the offences mentioned in those Acts, but with regard to certain cases, there is no power in the local Legislature to provide for appeals, and that is why clause 2 of the present Bill has become necessary. I shall explain that more fully later. The three divisions are: executive powers, new offences and provision for the trial of those offences. Sir, so far as offences and trials of offences are concerned, there is no bar whatsoever to appeals, revisions, reviews, and what not. All the existing rights are left absolutely intact . . . .

**Mr. S. C. Sen:** Not reviews.

**The Honourable Sir Brojendra Mitter:** If the Honourable Member will not interrupt me, I shall be able to explain the case more briefly. So far as Bihar and Orissa, United Provinces, Punjab and Bombay are concerned, the ordinary Courts will try those cases, and, therefore, the appeals and revisions given by the Criminal Procedure Code are available to the accused in those cases. Therefore, nothing has been taken away. So far as Bengal is concerned, Special Magistrates have been created under the Bengal Act. These Special Magistrates in Bengal do not come under the Criminal Procedure Code, and, therefore, it is necessary to provide for appeals to the High Court from the orders passed by them. That is the justification for clause 2, and, so far as I have been able to follow the debate, no Honourable Member has quarrelled with clause 2, except Mr. Sen with a fantastic argument to which I shall refer presently. Mr. Sen says that clause 2 is unnecessary, because, under the Bengal Act, there is no sentence higher than a sentence of six months that can be inflicted.

**Mr. S. C. Sen:** No, Sir, I do not think I said that considering that sub-clause (a) of clause 2 is perfectly necessary, and as regards (b), there are no offences for which can . . . .

**The Honourable Sir Brojendra Mitter:** That is why I say fantastic. If my friend had looked at section 16 of the Bengal Act, he would have seen:

"A Special Magistrate may pass any sentence authorised by law except a sentence of death or transportation or of imprisonment exceeding seven years."

Therefore, a Special Magistrate has been empowered to inflict a sentence up to seven years. Then, what about sentences between four and seven years, and, for that purpose, (b) is necessary . . . .

**Mr. S. C. Sen:** Are these Special Magistrates empowered to pass sentences exceeding those prescribed for offences in the penal laws?

**The Honourable Sir Brojendra Mitter:** Sir, in Chapter III of the Bengal Act, section 13 provides this:

"Any Presidency Magistrate or Magistrate of the first class who has exercised power<sup>s</sup> as such for a period of not less than four years may be invested by the Local Government with the powers of a Special Magistrate under this Act."

Section 14 says this:

"Subject to the provisions of section 13 a Special Magistrate shall try such offences other than offences punishable with death, as the Local Government or an officer empowered by the Local Government in this behalf may, by general or special order in writing, direct."

Therefore, a Special Magistrate can, under the Bengal Act, try any offence which is not punishable with death or transportation for life. That being so, he can inflict punishment up to seven years. Supposing a Special Magistrate in a particular area is given jurisdiction to try all offences under the Penal Code not punishable with death or transportation for life. He, as Special Magistrate, tries those cases. There is no appeal under the Criminal Procedure Code.

**Mr. S. O. Sen:** What about section 18? That is the power which Special Magistrates have got?

**The Honourable Sir Brojendra Mitter:** Section 18 says this:

"A Special Magistrate shall not try any offence unless it is an offence punishable under this Act or was committed in furtherance of a movement prejudicial to the public security."

Supposing, in furtherance of such a movement, a murder is committed. What then? Supposing, in furtherance of such a movement, a dacoity is committed. We know of political dacoities. We know of political arson. We know various offences are committed in furtherance of subversive movements. A Special Magistrate will be empowered to try those cases and he would be empowered to inflict punishment over four years and in such cases an appeal is necessary and that is what clause 2 (b) provides for.

Sir, I am straying from the main argument. It has been suggested by a number of Honourable Members that there is no remedy against illegal acts. Sir, I submit that that argument is based upon a misconception. As I have said, if there be a prosecution in any Court, the right of appeal and revision has been left intact. Now, leaving aside matters before Courts, let us come to executive acts. Supposing there is an illegal arrest, that arrest, as has been already pointed out by my friend, Mr. Biswas, is not an arrest under the Act. (Laughter.) It is not a laughing matter. I will explain it by way of illustration. Take any of these Acts. Take the Bombay Act. Section 3 says:

"Any officer of Government, authorised in this behalf by general or special order of the Governor in Council, may, if satisfied that there are reasonable grounds for believing that any person has acted or is about to act in a manner prejudicial to public safety, arrest such person without warrant."

Supposing an officer arrests; but he was not authorised to do so. If an unauthorised officer arrests, that arrest is not an arrest under this Act. Therefore, every remedy which is now available to the arrested person will be available to him after this Bill is passed. That is by way of illustration.

**Rao Bahadur B. L. Patil** (Bombay Southern Division: Non-Muhammadan Rural): If the order is unreasonable?

**The Honourable Sir Brojendra Mitter**: I am dealing with illegality. Reasonableness or unreasonableness is a matter of opinion. I am not worried about that. What I am dealing with is the question of illegality. This point has been made by several Honourable Members. Sardar Sant Singh said that if the detention was illegal, the jurisdiction of the Courts was taken away. Then Mr. Mitra said that nobody could question the legality of an arrest. Mr. Navalrai said that the High Courts would be under the domination of the Provincial Governments, and, lastly, I was surprised to hear Sir Abdur Rahim say that the jurisdiction of the High Court to revise was taken away. What I say is this. For the case of prosecution before a Court, nothing further need be said. I have already said what I had to say. With regard to executive action, if it is strictly legal under the Act, then there is no remedy. That is quite true; but if that executive action be illegal or be irregular, then every remedy which is now available to an aggrieved person will be available to him after this Bill is passed.

**Sir Abdur Rahim**: Will there be any remedy under 491?

**The Honourable Sir Brojendra Mitter**: Sections 3 and 4 are more or less the same. Section 3 refers to some of the Provincial Acts. Section 4 gives the purport of those sections independently and says this:

"No civil or criminal proceeding shall be instituted against any person for anything in good faith done or intended to be done under the said Act or against any person for any loss or damage,"

and so on.

Whether the good faith comes before or after the word "done"—I shall deal with that in a minute. But apart from that, an act, which is contemplated under clauses 3 and 4 of this Bill, is an act under the Provincial Acts. Therefore, anything which is illegally done cannot, by any stretch of imagination, be said to come under the category of act done under any of the Acts. Sir, there cannot be any legitimate ground of grievance on this score.

Sir, in some of these Provincial Acts, the language used is this: anything done or, in good faith intended to be done, and in other Acts, it is in good faith done or intended to be done. There is a difference in phraseology, in drafting. In substance it means the same thing; but the point is this—whether what is done or what is intended to be done in all these cases, that act is governed all the time by the qualification that that act must be under the Act, that is to say, in exercise of the powers which the Act gives the executive officers. If it be in excess of those powers or in derogation of those powers, then that act cannot be an act under these Provincial Acts, whether they are done in good faith or done in bad faith.

**An Honourable Member**: What about "purports to be under the Act"?

**The Honourable Sir Brojendra Mitter**: Now, clause 5 refers to Punjab and clause 3 refers to Bihar and Orissa, Bombay and the United Provinces. The effect of both these clauses is the same, because clause 3 says this:

"These particular sections of the Provincial Acts shall have effect as if these sections had been enacted by the Indian Legislature."

Sir, these Provincial Acts bar the jurisdiction of the Courts and if it be enacted by the Indian Legislature, it will bar the jurisdiction of the

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Courts including High Courts, whereas the Provincial Legislatures could not affect the jurisdiction of the High Courts. Clause 3 is really wider than clause 5. Clause 5 deals only with 491. Clause 3 deals with all jurisdictions of the Courts and, if clause 3 be enacted by this Legislature, then the High Courts will come within its scope. Therefore, there is no differentiation, as Sardar Sant Singh seems to imagine, between Punjab and the other four provinces mentioned in this Bill. 491 is taken away. In the previous special laws, which were passed by this House, there was a similar provision taking away the *habeas corpus* section and this Bill only repeats the same provision. The power under section 491 is taken away. If by an executive act, an arrest is made legally under any of these Provincial Acts, section 491 is of little avail even at the present moment. Supposing nothing was said about 491 and a person is arrested under one of these Provincial Acts, as Congress people were arrested recently. I am assuming that they were arrested under the provisions of some of the Provincial Acts. If they were arrested under the provisions of any of these Acts, and if an application were made before a High Court under 491, what would be the result of that application? It would be thrown out summarily, because the first question the High Court would ask is this: "Are you, the applicant, under arrest under any law or without any law?" He will have to say: "Well, I am arrested under section 3 of the Bengal Security Act." The High Court will say: "We do not interfere, because you are not under illegal arrest. It is only in case of illegal arrest that the High Court interferes." I am only giving an illustration. Sir, if you come to examine specific cases, you will find that very little difference is made by the Bill, because, in practice, if a person is arrested by virtue of powers given by any Act, Provincial or Central, then the High Court will not interfere. It is only in cases of illegal detention or illegal arrest that the High Court interferes.

**Sir Hari Singh Gour** Therefore, clause 5 is superfluous? Take it away!

**The Honourable Sir Brojendra Mitter:** Superfluous or not superfluous, we think, for the sake of greater caution, it is necessary. Sir, my first point is to meet my Honourable friend, Sardar Sant Singh's argument that there is no differentiation between the Punjab and the other provinces, and, secondly, I say frankly that the powers under section 491 are taken away. Now, I come to my Honourable friend, Sir Abdur Rahim's point—and I think my Honourable friend, Mr. Sen, also repeated that point about section 107 of the Government of India Act. Sir, the powers under section 107 of the Government of India Act have been conferred by Parliament. We have not the competence to touch those powers. Section 65 of the Government of India Act makes it perfectly plain that the Central Legislature will not have the power to make any law repealing or affecting any Act of Parliament passed after the year 1860 extending to British India. Therefore, whatever we may do, we cannot take away the powers of the High Court under section 107 of the Government of India Act. Sir, I do not know whether Sir Abdur Rahim, in his political preoccupations, has now the time to read law reports, but I can tell him that recently two very important judgments have been delivered—one by Sir George Rankin in Calcutta and the other by Sir John Beaumont in Bombay dealing with section 107. What they have said is this,—that their powers under section 107 cannot be taken away by the Indian Legislature, and they

go further and discuss the scope of section 107 as to what the powers of superintendence over inferior Courts mean. I need not go into that, but I say this that both the Calcutta and the Bombay High Courts have held that there are powers of superintendence including revisional powers in certain cases. Sir, my point is this that, however much we may try to take away the revisional powers from the High Court, which we have not done, we cannot do so. (*Sir Abdur Rahim*: "Why try?") Sir, I repeat, we have not attempted to do so; all these appellate and revisionary powers have been left absolutely untouched by the present Bill. Sir, there is one other point raised by Sardar Sant Singh about the period of appeal. Under the Bill, the time for appeal is 30 days, whereas in other cases the period of appeal is longer. I refer him to section 17 of the Bengal Act. The period of appeal there also is 30 days:

■ "An appeal under sub-section (1) shall be presented within thirty days from the date of the sentence."

So, this is only in accord with what the Bengal Legislature has already passed. We are not restricting the period of appeal which might otherwise have been allowed, because this class of Special Magistrates does not exist in Bengal. New Courts are set up, and new powers have been given to them. The Bengal Act has given 30 days when the appeal is to the Sessions Court, and, similarly, we have given 30 days when the appeal is to the High Court. That depends, Sir, upon the length of the sentence. If the sentence be, say, a year or so, an appeal will lie to the Sessions Court within 30 days. If the sentence be more, the period is still 30 days. It makes no difference, so far as the time for appeal is concerned, whether the sentence is one year or five years.

**Sardar Sant Singh**: May I ask, is it not a fact that under the ordinary law the period of limitation for an appeal to the Sessions Court is 30 days while that for an appeal to the High Court is 60 days?

**The Honourable Sir Brojendra Mitter**: Sir, my Honourable friend, Sardar Sant Singh, ought to remember that appeals under clause 2 (1) (a) are from Presidency Magistrates' Courts.

**Mr. S. C. Sen**: Clause (b) refers to appeals from the mufassil?

**The Honourable Sir Brojendra Mitter**: So far as the appeal is from a Presidency Magistrate's Court, 30 days is certainly not too little. But the complaint is that 30 days may be too little when the appeal lies from a district. That, I understand, is the argument. Well, that is a matter of opinion; and since these special laws are designed to meet an emergent situation, where speedy trial is an absolute necessity, in our opinion, 30 days is not too short.

**Sardar Sant Singh**: With your permission, Sir, may I say one word? In the Punjab, there are Magistrates invested with section 80 powers and they are empowered to inflict a sentence up to seven years. Appeals from those Magistrates will lie direct to the High Court if the sentences are for over four years, and the period of limitation is 60 days.

**The Honourable Sir Brojendra Mitter**: Very well, then you have no grievance. In your province you already have got 60 days. You are now talking of my province; well, I am quite content with 30 days for my province. There is no terrorism in the Punjab, as there is in Bengal. Something special is obviously needed for Bengal. (*Hear, hear.*) I think, Sir, these are all the legal points which have been raised. To sum up,

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I submit that Honourable Members will kindly not entertain the idea that when a man is prosecuted, any of his existing rights have been taken away. All the rights under the existing law are still preserved to him. The only case in which you may say that the right of the citizen has been restricted is in the case of special powers with which the executive have been invested. That, Sir, is a matter of policy which the needs of the moment warrant and I do not wish to go into questions of policy now. All I need say is this that the only criticism which can legitimately be levelled against this Bill is the criticism directed towards the exercise of the executive powers. But even then the executive powers must be exercised under the Act and in accordance with the provisions of the Act. If those powers are exercised in excess of the Act or in abrogation of the Act or in contravention of the Act, then every remedy is open to the aggrieved person. Therefore, the fears that the rights of the citizens are taken away and every body will be at the mercy of the police and the executive are unnecessary and imaginary.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Does the Chair understand the Honourable Member, Mr. S. C. Sen, to raise a point of order that clause 4 contravenes the provisions of section 107 of the Government of India Act?

**Mr. S. C. Sen:** That is what I said, Sir.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): On that point the position is analogous to the situation with which this House was faced when considering clause 5 of the Bengal Suppression of Terrorist Bill. On that occasion also, the Honourable the Law Member explained that it was not the intention of Government to take away any powers vested in the High Court under section 107 of the Government of India Act. Even on this occasion the Honourable the Law Member says that it is not the intention of the Government to ask this House to take away the powers of the High Court by clause 4 of this Bill. But when a definite point of order has been raised, it is not for the Chair simply to be satisfied that it is not the intention of the Government to do a particular act.

**The Honourable Sir Brojendra Mitter:** I said that this was not the intention of the Government nor is it within the competence of the Legislature.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Even if it is the intention of the Government to take away a power, it will not be competent for the House to take away that power. But when a definite point of order has been raised, the Chair has to decide whether the wording of a particular section gives scope for the misunderstanding that it seeks to take away certain powers conferred under the Government of India Act. If it clearly gives room for that interpretation, the Chair cannot allow a clause of that nature to go through leaving the High Courts concerned to say that, even though the section is wide, the Legislature has not got the power. The Chair would, therefore, advise that the day after tomorrow when this Bill is taken up, Government would do well to propose a suitable proviso making the position clear.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 5th April, 1933.

## APPENDIX.\*

**Mr. N. R. Gunjal** (Bombay Central Division: Non-Muhammadan Rural): Sir, I strongly oppose the motion for circulation of the Temple Entry Bill moved by my Honourable friend, Mr. Ranga Iyer. This Legislature is no proper place for passing religious and social laws; if such legislation is passed here, it will give rise to a grave discontent amongst the Hindu public. Sir, the Congress leaders of the past also desired these reforms, but their principle was not to create discontent among the masses. This is apparent from the manner in which the late Lokmanya Tilak conducted the movements of his times.

Since the year 1920, Sir, several modifications were introduced in the aims and objects of the Congress, and it was the infatuation of power of the Congress dictators that should be held responsible for factions in the Congress Camp. It was Mahatma Gandhi, who, as the dictator, made that announcement of getting Swaraj within a year in 1920. People of all kinds collected a fund of one crore of rupees for helping the movement. When the Congress advocated boycott of Legislatures, I withdrew my candidature and helped the Congress cause.

Sums amounting to lakhs were mis-spent by the Congress followers out of the one crore fund collected. A sum of about twenty-five lakhs was earmarked for removal of untouchability. This fact came recently to the notice of Dr. Ambedkar who enquired of Mahatma Gandhi as to how the sum was disposed of. The Mahatma could not give a satisfactory reply and ultimately made a pact with Dr. Ambedkar known as the Poona Pact. Many people protested against the Pact, but to no effect.

Temple Entry and the Removal of Untouchability movement is one of the movements started by Mahatma Gandhi as the Congress dictator. The Sanatanists and the Shastras are opposed to this movement. Mahatma Gandhi could not support the movement on the basis of the Shastras and had to take recourse to the unreasonable argument that no necessity arises to consult the Shastras in this connection. His trick of majority and minority opinion failed in the matter of Guruvayur Temple Entry agitation. At last an attempt appears to have been made for seeking the help of the Legislative Assembly through Honourable Mr. Ranga Iyer, by the Mahatma and these Congress leaders,—people who once upon a time advocated the boycott of the Legislatures, called the Government Satanic, and looked upon people who entered the Councils with contempt,—because I gather from newspaper reports that Congress leaders have come here to promote the speedy passage of this Bill—I see some of them sitting in the galleries also.

Sir, I am surprised to see this change in their attitude. Some day it may even be expected that they will feel no humiliation in soliciting for Government favours also.

Since 1920, the Congress started several movements, but these have resulted merely in promoting internecine strife and differences even between the members of a family. For instance, the Honourable Mr. Ranga Iyer's

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\* *Vide* page 2552 of L. A. Debates, dated the 24th March, 1933.



brother is against the Temple Entry Bill and was a member of the deputation of the Vernashram Swaraj Sangh which waited on His Excellency the Viceroy the other day.

Mr. Jannadas Dwarkadas of Bombay has recently published an article in the papers which makes it quite clear how people were duped in the Congress movement. I would, therefore, advise the Honourable Mr. Ranga Iyer to withdraw this Bill and not to be influenced by the Congress leaders.

Sir, it is not that I have no respect for the Congress. I have done some Congress work since the time I entered public life; but now one finds it difficult to work under the Congress banner since it has taken to religious and social movements. This is the time for plain speaking. I ask the leaders of this movement whether they have ever shared their bread or clothings with the untouchable classes. It is we who have given them protection for thousands of years and preserved several of their rights. And that is why they have remained within the Hindu fold. The untouchable classes cannot be blind to this fact.

I would advise the untouchable class people not to be misguided by the Congress leaders. They should not get their intercourse with touchable classes further restricted. From ancient times they have held an important place in the *Warkari Samaj* to which belonged such eminent saints as Dyandeva, Tukaram, Namdeva, Chokhamela, Rohidas, etc.

Sir, the present day Congress leaders are not reliable in matters social and religious. Similar questions no doubt arose in the past; but leaders like Lokmanya Tilak never sought the aid of legislation and thereby to injure the susceptibilities of the masses in general.

On careful thinking, I have no other alternative but to oppose the Honourable Mr. Ranga Iyer's motion. I hope the House also will reject this Bill. I would also remind the Government that, for their support to the *Sarda Act*, Government have become unpopular. I should warn them against adding to their unpopularity by again lending support to this Bill. In conclusion, I urge on my Honourable friend, Mr. Ranga Iyer, to withdraw his Bill.

# LEGISLATIVE ASSEMBLY.

Wednesday, 5th April, 1933.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) in the Chair.

## QUESTIONS AND ANSWERS.

### BOUNDARIES OF THE PROPOSED ORISSA PROVINCE.

1120. \***Mr. B. Das:** (a) Will Government be pleased to state the nature of the recommendations they made in their Despatch to the Secretary of State on the boundaries of the Orissa Province?

(b) In what way did it follow the recommendations of the O'Donnell Committee?

(c) Did Government recommend the exclusion of the Jeypore Agency as is contained in the award of the British Government?

(d) Will Government be pleased to lay on the table a copy of the Government of India Despatch regarding the Orissa Province?

**The Honourable Sir Brojendra Mitter:** With your permission, Sir. I propose to answer questions Nos. 1120 and 1121 together.

I am not in a position to supply the information asked for by the Honourable Member or to lay on the table the correspondence referred to.

**Mr. B. Das:** May I inquire when Government intend to publish the Despatches that were sent on the Orissa boundary question?

**The Honourable Sir Brojendra Mitter:** My Honourable friend assumes that the Despatches will be published. I do not agree with him.

**Mr. S. C. Mitra:** Will Government please explain what are the reasons for not publishing those Despatches?

**The Honourable Sir Brojendra Mitter:** They are confidential.

### BOUNDARIES OF THE PROPOSED ORISSA PROVINCE.

†1121. \***Mr. B. Das:** (a) Will Government be pleased to state the nature of the recommendations by the (i) Government of Bihar and Orissa, (ii) Government of Madras, and (iii) Government of Central Provinces, on the boundaries of Orissa as was recommended by the O'Donnell Committee?

(b) Is it not a fact that the Government of Bihar and Orissa support the majority report of the O'Donnell Committee regarding the inclusion of the Parlakimedi Estate in Orissa Province?

† For answer to this question, see answer to question No. 1120.

(c) What were the recommendations of the Government of Bihar and Orissa regarding the inclusion of the Parlakimedi Estate and the Jeypore Agency in Orissa?

(d) What were the recommendations of the Government of Madras regarding the inclusion of Jeypore and Parlakimedi?

(e) Will Government be pleased to lay on the table the Despatches of the Government of Bihar and Orissa and of the Government of Madras on the O'Donnell Committee Report?

#### COMPLAINTS ABOUT ADULTERATION IN COUNTRY LIQUOR BOTTLES IN DELHI.

1122. \*Mr. B. N. Misra: (a) Are Government aware that there is a general complaint of the Delhi public about the adulteration up to 25 per cent. in country liquor bottles at the retail sale shops? If not, do Government propose to order an open enquiry into the matter?

(b) Are Government aware that when the public do not get real wine in Delhi, they are obliged to get their requirements at much trouble from the rural shops near Delhi, such as Sonipat, Bahadurgarh, Palwal, Gohana, etc., in the Rohtak and Gurgaon districts of the Punjab Province?

**The Honourable Sir George Schuster:** Enquiries are being made and the information asked for by the Honourable Member will be laid on the table in due course.

#### DUTY ON COUNTRY LIQUOR.

1123. \*Mr. B. N. Misra: (a) Is it a fact that reduction was made in 1932 in Delhi in the duty on country liquor and that the auction of country liquor shops was let off at higher bids in licence fees than in previous years?

(b) Is it a fact that Government again reduced the duty on country liquor in the Delhi Province this year and that in the auction of 1933 of country liquor shops in Delhi the licence fee has actually decreased instead of going up?

(c) Are Government in a position to account for the fall in licence fees in the auction of 1933 of country liquor shops in Delhi?

(d) Is it a fact that the retail sale merchants of country liquor purchase bottles at Rs. 1-7-0 per bottle from the distillery and sell at Rs. 3-2-0 per bottle?

**The Honourable Sir George Schuster:** The information asked for by the Honourable Member is being collected and will be laid on the table in due course.

#### GRANT OF PENSION TO BAUDOT MISTRIES.

1124. \*Mr. N. M. Joshi: With reference to the reply given to my question No. 181 on the 4th September, 1928, regarding the grant of pension to Baudot mistries, will Government be pleased to state whether they have come to a final decision on the matter and, if so, what are the decisions?

**Sir Thomas Ryan:** The attention of the Honourable Member is invited to the reply given by me on the 7th March, 1933, to part (b) of Pandit Satyendra Nath Sen's starred question No. 676.

**RETIREMENTS OF TELEGRAPH EMPLOYEES OF CERTAIN GRADES.**

**1125. \*Mr. N. M. Joshi:** Will Government be pleased to furnish a statement showing the number of retirements (a) compulsory, and (b) voluntary in each of the following grades after the introduction of Sir Cowasji Jehangir's Report:

- (1) Telegraphists, (2) Telegraph Masters, (3) Deputy Superintendent, (4) Officers of the first and second Divisions, (5) Officers of the Engineering Branch, and (6) Clerks?

**Sir Thomas Ryan:** The figures asked for are as follows, the numbers of compulsory and of voluntary retirements being given in that order in each case:

Telegraphists . . . . .	93 and 180.
Telegraph Masters . . . . .	64 and 39.
Deputy Superintendents . . . . .	None and 1.
Officers of the 1st and 2nd Divisions of the Superior Traffic Branch . . . . .	None and 3.
Gazetted Officers of the Engineering Branch . . . . .	1 and 6.

The total number of clerks (including Head Postmasters, Sub and Branch Postmasters, Inspectors and Town Inspectors of Post Offices, Sorters, Supervisors, etc.) retrenched up to the 30th November, 1932, is 2,434 but no information is available as to the number who retired voluntarily or were compulsorily retrenched.

**CALCULATION OF THE MINIMUM NECESSARY FOR INCOME-TAX.**

**1126. \*Mr. N. M. Joshi:** Will Government be pleased to state whether in the calculation of the minimum necessary for income-tax, the gross or net pay is taken into consideration? If it is the latter, what items of deductions are excluded?

**The Honourable Sir George Schuster:** As regards income chargeable under the head "Salaries", tax is deducted at source on the amount payable by the employer to the employé concerned without any deductions whatever except those specified in section 7 (1) proviso, section 15 and section 58-F of the Income-tax Act in respect of life insurance premium and contributions to certain provident funds subject to the restrictions prescribed in the Act. Barring these deductions, gross pay is taxed.

**PROSECUTION OF THE RIYASAT BY THE BHOPAL STATE.**

**1127. \*Mr. B. Das:** (a) With reference to the prosecution sanctioned by the Government to the Bhopal Durbar against the *Riyasat* and the judgment of the Magistrate, Mr. Isar, on the case, has the attention of Government been drawn to the following passage;

"It is the State Police that carried on the investigation in Delhi and other places in British India without the assistance even of the local police. It is the State that has paid all expenses."

(b) Was the Delhi Police aware of these independent investigations and did Government take any action at the time against the encroachment of the liberties of British Indian subjects by an Indian State?

**The Honourable Sir Harry Haig:** I have made enquiries from the Delhi Administration and will lay a reply on the table in due course.

#### HYGIENE ON RAILWAYS.

1128. **\*Mr. B. Das:** (a) Will Government please say if their attention has been drawn to an article in the *Bombay Chronicle*, dated the 18th March, 1933, regarding hygiene on railways?

(b) If not, are Government prepared to send for the article and consider ways and means of improving the flooring of railway carriages especially third class carriages?

**Mr. P. R. Rau:** (a) Yes.

(b) This question has been engaging the attention of railways and endeavours have been made to improve the flooring of carriages, particularly lower class carriages. Composition flooring has been tried fairly extensively but the types used have, after a few years service, been found to disintegrate rapidly, necessitating premature renewals. Further experiments are being carried out but so far no satisfactory substitute for wood in railway carriage flooring has been found.

#### AREA OF LAND IN NEW DELHI RESERVED FOR ALLOTMENT TO DIWANS AND RAISES.

1129. **\*Mr. S. G. Jog:** (a) Is it a fact that a separate area of land in New Delhi is reserved for allotment to Diwans and Raises? If so, what proportion does it bear to the total area of land in New Delhi?

(b) Will Government please state which Department deals with this allotment of plots and who is the final authority and what is the procedure for this?

(c) When plots are available for allotment, are the public or the Rais class informed about it and applications invited?

(d) Will Government please state how many plots have been so far allotted and how many are available at present?

(e) How many applicants are on the waiting list and for how long a period?

(f) Will Government please state the number of allotments as per provinces?

(g) In view of the fact of the transfer of more States from the Central Provinces, Bombay and Bihar, do Government propose to provide for more plots so as to make them available to the Diwans and Raises of all provinces?

(h) Are Government prepared to resume possession of the plots in New Delhi that have been given long ago and not built upon and thus make them available for others who want them?

**Mr. G. S. Bajpai:** I have called for certain information and will lay a reply on the table in due course.

**LOANS ADVANCED BY THE GOVERNMENT OF INDIA TO INDIAN STATES AND BRITISH INDIAN PROVINCES.**

**1130. \*Sirdar Harbans Singh Brar:** (a) Will Government please state the amounts advanced as loans to different Indian States and British Indian provinces giving the dates of advances, the dates of the Secretary of State's sanction in respect of each advance and the rates of interest thereon?

(b) Will Government please state the funding arrangements which have been made in respect of each of these advances and the amounts recovered by way of interest and capital thereof?

(c) What are the amounts written off or proposed to be written off as irrecoverable or otherwise?

**The Honourable Sir George Schuster:** (a) and (b). As regards advances to Provinces, the Honourable Member will find a full statement in Account No. 86-A of the Finance and Revenue Accounts, of which copies are available in the Library. These advances are made from the Provincial Loans Fund and a notification showing the position of this Fund is published every year, the last copy being published with Finance Department notification No. F.-2-(4)-B./32, dated the 18th May 1932. As regards loans to Indian States, the total is shown in Account No. 95 of the Finance and Revenue Accounts. The rate of interest is based on the borrowing rate of the Government of India, though with minor variations to meet individual cases. The funding arrangements also vary. A full statement giving all the details required by the Honourable Member could not be prepared without an expenditure of time and labour which would not be justified, but if he desires information regarding any particular loan and will put in a question stating the date from which he requires it, I shall do my best to supply what he wants.

(c) According to my information nothing has been written off in the last three or four years. We have not continued the investigations further back than this, but there is no reason to suppose that any considerable amount has ever had to be written off.

**HOT WATER BATH AND RATES FOR CATERING IN THE LONGWOOD HOTEL, SIMLA.**

**1131. \*Sirdar Harbans Singh Brar:** (a) Will Government please state if it is a fact that officers residing at Longwood Hotel, Simla, get hot water for baths free of charge while Members of the Legislature have to pay for it?

(b) Is it a fact that the rates for catering irrespective of the period of stay is as follows:

	Single.	Couple.
Officers . . . . .	Rs. 4-8	Rs. 8
Legislators . . . . .	Rs. 6	Rs. 11

**The Honourable Sir Frank Noyce:** (a) The officers do not get hot water free of charge. The rent payable by them includes a charge for hot water, while the Members have to pay for it separately to the caterer.

(b) Yes.

# RETRENCHMENT OF INCOME-TAX OFFICERS IN BIHAR AND ORISSA.

1132. \***Mr. Gaya Prasad Singh:** (a) Will Government be pleased to state on what principle retrenchment has been made in the strength of the Income-tax Officers, in the province of Bihar and Orissa?

(b) Have Government satisfied themselves that the discretion exercised by the Commissioner of Income-tax, Bihar and Orissa, in the selection of senior officers for retrenchment in the presence of several junior ones has been rightly exercised?

(c) Have Government considered the extent of expenses entailed by the abovementioned selection of senior officers in the form of long leave, large gratuities and high pensions? Are Government aware that these measures have practically frustrated the very object for which the retrenchment is professed to have been made?

(d) Have Government considered the desirability of providing elsewhere those retrenched officers and thus taking active work from them rather than giving them pensions?

(e) Have Government given them any understanding that they would be re-called as soon as there are vacancies in the sanctioned cadre or that they would be the first to be taken in whenever there is any vacancy in any other Department of the Government of India or of the Provincial Government?

(f) Have Government granted them certificates of character and efficiency to enable them to find employment elsewhere until they are re-called or re-employed by Government?

**The Honourable Sir George Schuster:** I have called for a report on the matter referred to and will lay a statement on the table in due course.

# VOLUNTARY RETIREMENTS IN THE RAILWAY CLEARING ACCOUNTS OFFICE, DELHI.

1133. \***Pandit Satyendra Nath Sen:** (a) Is it a fact that in the office of the Director, Railway Clearing Accounts Office, an office order has been circulated that those who would retire voluntarily, but could not do so upto the 31st November, 1932,—the time fixed for voluntary retirement,—should give their names with proper reasons for not submitting their applications in time for the consideration of the Controller of Railway Accounts?

(b) Are Government prepared to cancel the restrictions contained in the above office order and to issue an unconditional one for retirement of the senior men in service and give more concessions if necessary?

**Mr. P. R. Rau:** (a) The Office order stated:

"If there be anyone who wants to offer for voluntary retirement, he should apply for the same immediately stating reasons why he did not avail of the chance upto 31st October, 1932, the date fixed by the Railway Board so that his application may be forwarded to the Controller of Railway Accounts".

(b) Government do not consider that any restrictions have been imposed in the order which was purely in the nature of an inquiry. In response to this, one clerk has already offered to retire and he has been allowed to do so. Government are not at present satisfied that there is any necessity to give further concessions to those desirous of retiring voluntarily.

UNEMPLOYMENT PROBLEM.

**1134. \*Mr. S. G. Jog:** (a) Will Government please state whether they have any statistics or figures to show the number of unemployed persons fit for employment in mills, factories, railways and Government and private services?

(b) Will Government please state whether they have any agency or bureau or department which collects this information?

(c) If Government have this information, will Government please state the number of the unemployed in different branches as per provinces, during the last five years?

(d) If Government have no such information or no such agency, are they prepared to set up machinery to collect this information with a view to combating the unemployment problem and menace?

(e) Are Government aware that such attempts are made in the other countries of the world?

(f) If so, will Government please state what steps they propose to take and on what lines?

**The Honourable Sir Frank Noyce:** (a) Government are not in possession of any such statistics.

(b) No.

(c) Does not arise.

(d) and (f). The matter is primarily one which concerns the Local Governments and the Government of India have no proposals for setting up machinery of the kind suggested.

(e) Certain countries publish statistics of unemployment.

**Mr. S. G. Jog:** Do the Government of India consider that this is a civilised country and that it is necessary to institute these inquiries?

**The Honourable Sir Frank Noyce:** The difficulty is that it is impossible to obtain any statistics of this kind unless they are combined either with a system of unemployment insurance or of trade union benefits. I may point out to the Honourable Member that, to the best of my belief, another country, the United States of America, which, I think, he will agree, is highly civilised, is also not in possession of any accurate statistics of this kind.

**Mr. S. G. Jog:** Are Government aware at least that there is vast unemployment in India at present?

**The Honourable Sir Frank Noyce:** That there is a considerable amount of unemployment I do not deny. As I have pointed out in my reply I gave to the Honourable Member's question, this is primarily a matter for the Local Governments, and, as I think he is doubtless aware, they do pay a considerable amount of attention to it.

**Mr. S. G. Jog:** Do the Government of India think that they are in any way concerned with this unemployment problem, and do they want to shirk their responsibility on to the Provincial Governments?



**The Honourable Sir Frank Noyce:** The subject is a provincial transferred subject and, therefore, there is, as I have explained to the House on more than one occasion, very little that the Government of India can do in regard to it. If the Honourable Member has any concrete suggestions as to what the Government of India can do in the circumstances I have explained, I shall be glad to have them.

**Mr. S. G. Jog:** Have the Government of India given any thought to the question as to what means can be found out to relieve the situation?

**The Honourable Sir Frank Noyce:** I do not see what the Government of India can do in regard to a provincial transferred subject.

**Mr. S. C. Mitra:** Have the Government of India done anything for the centrally administered areas for which they are responsible, in the way of getting statistics for unemployment?

**The Honourable Sir Frank Noyce:** I have explained the difficulties in collecting unemployment statistics. Those difficulties apply equally to the centrally administered areas.

**Mr. S. C. Mitra:** Is the difficulty of collecting figures for unemployment peculiar to India or is it a difficulty which is met everywhere in the world where figures are collected?

**The Honourable Sir Frank Noyce:** It is a difficulty which is met everywhere except in countries which have a system of unemployment insurance or trade union benefits.

**Mr. Lalchand Navalrai:** Does the Honourable Member know that an association has been started in the Punjab with regard to this unemployment question, and are Government going to co-operate with them?

**The Honourable Sir Frank Noyce:** I take it, Sir, that the first action of the people who have taken up this question will be to secure the co-operation of the Local Government.

**Mr. N. M. Joshi:** May I ask, under what section of the Government of India Act are the Government of India precluded from legislating on unemployment insurance and such subjects?

**The Honourable Sir Frank Noyce:** The Government of India are not precluded from legislating on the subject, but we should want a very definite request from Local Governments before we take action.

**Lieut.-Colonel Sir Henry Gidney:** Will the Honourable Member inform this House whether he has any information as to the total number of the unemployed in the Government of India services?

**The Honourable Sir Frank Noyce:** There is no unemployment in the Government of India services; all the people who are serving under the Government of India are presumably employed. (Laughter.)

**Lieut.-Colonel Sir Henry Gidney:** The Honourable Member knows well that I refer to those people who were in the Government of India services and have been retrenched and are, therefore, now unemployed.

**The Honourable Sir Frank Noyce:** That information can be obtained.

**Dr. Ziauddin Ahmad:** In view of the fact that the Government of India are the employers of two largest Departments, that is the Post Office and Railways, is it not possible for the Government to help unemployment by starting fresh schemes and fresh proposals and undertakings?

**The Honourable Sir Frank Noyce:** That, Sir, is a question which could more properly be directed to my Honourable friend, the Member for Railways.

**Mr. Lalchand Navalrai:** Might I know from the Honourable Member if it would be difficult to know the number of unemployed people in the Posts and Telegraphs Department, where there are Unions, and Government can find this out very easily?

**The Honourable Sir Frank Noyce:** It is quite easy to find out the number of employees who have been retrenched in the Posts and Telegraphs Department. If my Honourable friend wants those statistics, I can give them to him.

**Mr. S. C. Mitra:** Is not labour legislation a Central subject, and as such any legislation about unemployment will come under the purview of the Central Legislature?

**The Honourable Sir Frank Noyce:** There is a difference between legislation and administration, Sir, and I am not sure how mere legislation is going to help. In any case, as I have explained, the matter is primarily one for Local Governments. If they want Central legislation passed by us, we shall be happy to examine any proposals they make on the subject.

**Mr. S. C. Mitra:** I was thinking of unemployment insurance and such matters. Will they not come under the purview of the Central Legislature?

**The Honourable Sir Frank Noyce:** There would be no difficulty about undertaking Central legislation in regard to unemployment insurance, but we are a very long way from being in a position to evolve any satisfactory system of unemployment insurance for such a vast country as India, with her very special conditions.

**Mr. S. G. Jog:** In the general census which was taken last year, did the Government of India suggest that any column or heading should be opened in those remarks from which an enquiry could have been made?

**The Honourable Sir Frank Noyce:** I believe, Sir, there was an effort made to obtain some figures in regard to certain classes of unemployment in the census, but it proved impossible to get any satisfactory figures on that subject.

**Mr. Lalchand Navalrai:** May I ask, which were those classes for which that column was made?

**The Honourable Sir Frank Noyce:** Unemployment amongst the educated classes.

#### AMOUNT RECOVERED BY WAY OF ESCHEAT.

1135. **\*Mr. S. G. Jog:** (a) Will Government please state whether they have any such head as "Escheat" or any other name of similar import under which Government get some property or money?

(b) If so, how much amount have Government recovered by way of escheat during the last five years?

(c) What use do Government make of this amount?

**The Honourable Sir Harry Haig:** (a) The sale proceeds of unclaimed and escheated property are entered as receipts in table No. 48, under the head "Administration of Justice" in the Finance and Revenue Accounts of the Government of India.

(b) The total receipts for the last five years for central areas including the North-West Frontier Province amounted to Rs. 64,773.

(c) The receipts form part of the revenues of Government under sub-section (3) (iii) of section 20 of the Government of India Act, and when not disbursed in accordance with the provisions of section 31 of that Act are credited to revenue.

#### APPOINTMENT OF A MUSLIM AS EXECUTIVE OFFICER IN THE DELHI CANTONMENT.

1136. **\*Maulvi Sayyid Murtuza Saheb Bahadur:** (a) Is it a fact that no Muslim has been appointed as Executive Officer in the Delhi Cantonment, since its establishment, though three chances had presented themselves for such an appointment?

(b) Are Government prepared to appoint a Muslim when the next vacancy occurs?

**Mr. G. R. F. Tottenham:** (a) I have no information. The post is held by a civilian appointed by the General Officer Commanding-in-Chief, Eastern Command, under authority delegated to him under section 13 of Cantonments Act, 1924.

(b) Government do not propose to interfere with the discretion of the General Officer Commanding-in-Chief.

#### PROCESSION WITH MUSIC IN THE DELHI CANTONMENT.

1137. **\*Maulvi Sayyid Murtuza Saheb Bahadur:** (a) Is it a fact that no procession was ever taken out with music in the Delhi Cantonment?

(b) Is it a fact that the said procedure is being departed from for the last two years?

(c) Is it a fact that when this innovation was objected to by the Muslim residents of the Cantonment, they were given to understand both by the police and executive officers that singing and music made with instruments would not be allowed before the mosque?

(d) Is it a fact that this promise was not kept up on the first occasion?

(e) Is it a fact that on the representation of the Muslims, the Cantonment authorities decided that no procession with music of any kind should pass the mosque?

(f) Is it a fact that notwithstanding this decision of the Cantonment authorities, the present Executive Officer supported the application of a certain community and recommended the issue of a licence in its favour for taking out a procession, and, accordingly, a procession passed the mosque in 1932?

(g) Are Government aware that concentration of mind is indispensable for Muslim prayer, and the play of music before the mosque is calculated to disturb the devotees in their prayers?

(h) Are Government aware that but for the intervention of some elderly Muslims not to obstruct the procession, there would have been a serious communal riot even in the Delhi Cantonment?

(i) Do Government propose to issue strict orders to the officers concerned to abide by the decision of the Cantonment authorities and not to allow any procession with music to pass in front of the mosque?

**Mr. G. R. F. Tottenham:** (a), (b) and (c). In 1930 and in 1931, processions with music passed along the road in front of the mosque. In 1932, as a result of objections on the part of the Muslim residents, the music was stopped when the procession passed the mosque.

(d) No.

(e) The Cantonment Authority issued orders that religious processions should not be allowed to halt or play music in front of any religious edifice.

(f) No. In August 1932, a licence for the procession was issued by the Senior Superintendent of Police, Delhi, but music was not played in front of the mosque.

(g) This is a matter on which I am not qualified to give an opinion.

(h) No.

(i) No further orders appear to be necessary.

#### UNPAID APPRENTICES WORKING IN THE GOVERNMENT OF INDIA SECRETARIAT AND ITS ATTACHED AND SUBORDINATE OFFICES.

1138. **\*Maulvi Sayyid Murtuza Saheb Bahadur:** (a) Will Government be pleased to lay on the table a statement showing the names of the paid and unpaid apprentices who are working in the Government of India Secretariat and attached offices and subordinate offices?

(b) Will Government be pleased to lay on the table a statement showing the amount of travelling allowances and honorarium that has been paid to the apprentices mentioned in part (a) above, since 1930?

**The Honourable Sir Harry Haig:** (a) and (b). I lay on the table a copy of the Home Department Office Memorandum No. F.-32/38/29-Establishments, dated the 9th December, 1929, which prohibits the employment of

apprentices in the Government of India and its attached and subordinate offices. I have no reason to believe that the orders in this Office Memorandum are not being observed, and I do not, therefore, consider it necessary to call for the information required.

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*Copy of an Office Memorandum No. F.-32-35-29-Establishments, dated the 9th December, 1929, from the Government of India, Home Department, to all Departments of the Government of India.*

The undersigned is directed to refer to the correspondence ending with the office  
etc.  
memorandum from the Foreign and Political Department, No. 58-F. O/29, dated the  
etc.

27th August, 1929

etc. regarding the employment of apprentices. The Llewellyn Smith Committee referred to the practice in paragraph 51 of their Report and recommended its discontinuance. The replies received from the Departments to the recent reference show that the employment of apprentices is now rare and objections to the system are generally accepted. The introduction of the system of leave reserves since the Committee reported should make it unnecessary to resort to it, and the undersigned is directed to say that the employment of apprentices in the Departments of the Government of India and its attached and subordinate offices should now be totally discontinued.

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#### CONFIRMATION OF STATE RAILWAY ACCOUNTANTS.

1139. **\*Mr. S. C. Mitra:** (a) Will Government please state the total number of State Railway Accountants under each State Railway, officiating in grades I and II who are awaiting confirmation in the respective grades?

(b) Is it a fact that an embargo has been imposed on the officiating accountants according to which their confirmation in the grade has been kept in abeyance?

(c) Is it a fact that before this embargo was introduced, certain State Railways as well as Company accountants were confirmed?

(d) Is it not a fact that the embargo has recently been withdrawn in respect of accountants, grade II, and some confirmations were made?

(e) Is it not a fact that the confirmation of accountants, grade I, is still kept in abeyance?

(f) Will Government please state when the question of confirming accountants, grade I, will be taken up? Are there vacancies at present?

(g) Will Government please state whether there is any truth in the rumour that scales of pay are going to be revised? If so, what will be the fate of officiating accountants? Will they continue in their old grades or be brought under the new ones?

**Mr. P. R. Rau:** (a) The number of officiating accountants who are awaiting confirmation is as follows:

Grade I—

- 5 on the North Western Railway,
- 4 on the East Indian Railway, and
- 3 on the Eastern Bengal Railway.

Grade II—

- 4 on the North Western Railway.

(b) to (f). The facts are as stated. The postponement of confirmations is due to the fact that the claims of people borrowed from the Audit Department under the control of the Auditor General and the claims of people who are permanent in the Accounts Department have to be balanced. The whole question is under re-examination at present.

(g) Revised scales of pay, which will primarily affect newly recruited staff, are now under consideration. I am unable to give a definite reply to the last part of the question at present.

**LEVEL CROSSING ON EITHER SIDE OF THE RAILWAY STATION AT UNAO.**

1140. **\*Mr. Goswami M. R. Puri:** (a) With reference to starred question No. 389, asked by Rai Bahadur Lala Brij Kishore, on the 21st February, 1938, have Government asked the Agent to the East Indian Railway to expedite the replies promised in reply to that question?

(b) Are Government prepared to enquire whether the complaints referred to in the above question are very keenly felt by the people and whether the closing of the gates at Court time is a great nuisance to the people?

**Mr. P. R. Rau:** (a) and (b). The Agent has replied that steps are being taken to minimise detentions to vehicular traffic at Unao.

**RETRENCHMENT IN THE DEHRA DUN POSTAL DIVISION.**

1141. **\*Maulvi Badi-uz-Zaman:** (a) Is it not a fact that the relative records of all the officials of the Dehra Dun Postal Division were not placed before the house which sat for the retrenchment?

(b) Is it not a fact that there are some more Hindu clerks in the Dehra Dun Division whose names were selected for retrenchment and have not yet been discharged?

(c) If the replies be in the affirmative, will Government be pleased to state:

(i) why the records of all the officials were not placed before the house that sat for retrenchment;

(ii) why those remaining Hindu selected men are not discharged and the posts abolished?

**Sir Thomas Ryan:** (a) to (c). Government have no information. The matter is within the competence of the Postmaster-General, United Provinces, to whom a copy of the question is being sent.

**ORDER PLACED BY THE RAILWAY BOARD FOR CAST IRON SLEEPERS WITH THE TATA IRON AND STEEL COMPANY, LIMITED.**

1142. **\*Mr. Jagan Nath Aggarwal:** (a) Is it a fact that the Railway Board have placed a very big order for 840,000 cast iron sleepers with the Tata Iron and Steel Co., Ltd.?

(b) Are Government aware that the North Western Railway asked the permission of the Railway Board to purchase 70,000 wooden B. & sleepers from the Punjab timber traders?

(c) Are Government aware that the Railway Board did not permit the North Western Railway to call for tenders for these sleepers, and that until this huge quantity of metal sleepers has been absorbed, no further orders for wooden sleepers could be placed?

(d) Are Government aware of the present depressed state of the Punjab timber market, and the effect which the present policy of the Railway Board of utilising metal sleepers is likely to produce?

(e) Are Government aware that the utilising of wooden sleepers in place of the purchase of this huge quantity of metal sleepers would amount to a saving of Rs. 33,60,000?

(f) What are the reasons for the excess capital expenditure on this bargain in the face of the economy that is at present necessitated by the financial position of the Indian Railways?

(g) What steps do Government intend to take to assist the timber trade of the Punjab?

**Mr. P. R. Rau:** (a) During 1933-34, orders are being placed for 129,000 cast iron sleepers. The pig iron has been obtained from the Indian Iron and Steel Company. The sleepers will be manufactured by the Tatanagar Foundry and the Bengal Iron works.

(b) Yes.

(c) The Railway Board did not authorise the call for tenders for these sleepers by the North Western Railway, but contracts for about 450,000 sleepers annually for the next three years have already been placed with the Punjab and Kashmir Timber contractors by the Northern Group for the North Western Railway.

(d) Government are aware that the Punjab Timber Market is, like many others, in a depressed state at present. The policy of the Railway Board has always been to make purchases both of wooden and metal sleepers as circumstances dictate, and they are not prepared to give either a practical monopoly.

(e) and (f). I am unable to follow my Honourable friend's calculations. The difference between the price of wooden sleepers and metal sleepers is roughly Rs. 3-8-0 per sleeper, but as my Honourable friend is no doubt aware, the life of a cast iron sleeper is more than twice that of a wooden sleeper.

(g) Government regret they cannot at present increase the purchases of wooden sleepers beyond what they have already arranged for.

#### CHIEF MEDICAL OFFICER, EAST INDIAN RAILWAY.

1143. \*Lieut.-Colonel Sir Henry Gidney: (a) Will Government please state if:

(i) the East Indian Railway is one of the largest State Railways in India with the largest medical service and sick rate;

(ii) the Calcutta University is the largest university in India?

(b) (i) Will Government please state if it is a fact that the present Chief Medical Officer, East Indian Railway, is a whole time servant of the State?

(ii) If the answer be in the affirmative, will Government be pleased to state whether such an officer is permitted to accept any additional office requiring whole time service?

(iii) Do the rules of Government demand that their permanent whole-time servants should obtain Government's permission before accepting such an office as Vice-Chancellor of a University?

(iv) If the answer to (iii) be in the affirmative, was permission applied for from Government by this Chief Medical Officer, and when was this given?

(v) Is it a fact that the present Chief Medical Officer, East Indian Railway, is also the Vice-Chancellor of the Calcutta University?

(c) Do Government propose to call upon the present Chief Medical Officer to resign his office as Vice-Chancellor of the Calcutta University? If not, why not?

**The Honourable Sir Joseph Bhore:** (a) Yes.

(b) and (c). The Chief Medical Officer of the East Indian Railway is a whole time servant of the State. At the special request of the Chancellor of the Calcutta University, Government agreed to his being permitted to continue as Vice-Chancellor of the Calcutta University for a period of two years from August last on the distinct understanding that his duties as such do not interfere with his duties as Chief Medical Officer of the East Indian Railway.

A formal application for permission was submitted by the Chief Medical Officer on the 16th July, 1932, and was sanctioned by Government on the 28th July, 1932. Government do not propose to call upon him to resign the office of Vice-Chancellor unless it is found that he cannot carry out effectively his duties as Chief Medical Officer combined with those of Vice-Chancellor.

**Sir Muhammad Yakub:** Are Government aware that a very large number of Vice-Chancellors of the Calcutta University have formerly been either Judges of the High Court who had to do very strenuous legal work in the High Courts or members of the Bar who had dashing practice and, that, in the case of the Judges of the High Court, it was never found that their Vice-Chancellorship of the University in any way hampered their work as Judges of the High Court?

**The Honourable Sir Joseph Bhore:** To the best of my knowledge. Sir, I think the suggestion made by my Honourable friend is correct.

**Lieut.-Colonel Sir Henry Gidney:** When this matter was originally referred to the Railway Board, will the Honourable Member please inform the House, did the Railway Board object to this officer taking over the additional duties of the office of the Vice-Chancellor of the Calcutta University?

**The Honourable Sir Joseph Bhore:** I must have notice of that question.



**Lieut.-Colonel Sir Henry Gidney:** Will the Honourable Member please state whether or not it is a fact that the pressure was brought to bear on the Government of India by the Government of Bengal in the person of the Governor of Bengal with a view to obtaining the necessary permission from the Railway Board?

**The Honourable Sir Joseph Bhore:** I can only repeat what I have said in my reply, namely, that at the special request of the Chancellor of the Calcutta University the Government agreed to this arrangement.

**Lieut.-Colonel Sir Henry Gidney:** Under the circumstances, when Government permitted these two appointments to be held by one person, did they consider it fair to either post—that these should be held by the same Officer, and is it not a fact that the performance of these two responsible duties by one official shows that the official work performed by the Chief Medical Officer of the East Indian Railway is not enough or adequate for whole-time service? If the answer to this be in the affirmative, will Government be pleased to recommend amalgamation of the Chief Medical Officer, East Indian Railway, with that of the Eastern Bengal Railway? My object is entirely one of economy and is not a personal matter at all. It is a measure I have been advocating for nearly two years long before the present incumbency.

**The Honourable Sir Joseph Bhore:** If my Honourable friend will put his questions singly, I shall be in a better position to reply.

**Lieut.-Colonel Sir Henry Gidney:** I will certainly put my questions singly. Is it not a fact that the holding of these two responsible offices by one officer shows that the official work performed by the Chief Medical Officer, East Indian Railway, is not enough to be considered adequate or as whole-time service?

**The Honourable Sir Joseph Bhore:** Not necessarily so, Sir.

**Lieut.-Colonel Sir Henry Gidney:** If the answer is “not necessarily so”, will Government be pleased to recommend the amalgamation of these two offices.

**The Honourable Sir Joseph Bhore:** That is a *non sequitur*.

**Sir Muhammad Yakub:** Are Government aware that frequent attacks by the Leader of the Anglo-Indian community in this House against the first Muslim Vice-Chancellor of the Calcutta University create a very bad blood amongst Mussalmans and expose the Anglo-Indian community to attacks on behalf of the Mussalmans?

**Dr. Ziauddin Ahmad:** May I ask Government, not necessarily the Member-in-charge of Railways, that if this principle enunciated be accepted, will Government always reduce one Judge of the High Court, if the Judge of the High Court happens to be doing the work of the Vice-Chancellor?

**The Honourable Sir Joseph Bhore:** Sir, I am not connected with the High Court of Calcutta.

**Mr. K. C. Neogy:** Are Government aware of an impression that prevails, at least in Bengal, that although Sir Hasan Suhrawardy is the *de jure* Vice-Chancellor, there is another gentleman who is the *de facto* Vice-Chancellor, and that so long as this arrangement continues, there is no reason of the interests of the Railways suffering in the least?

**The Honourable Sir Joseph Bhore:** I think I may say that my Honourable friend is imparting information rather than seeking information.

**Sir Hari Singh Gour:** Is it not a fact that the Judges of the High Court have stated hours for work in Court, whereas a Medical Officer has not got the same stated hours of work for doing medical duties?

**The Honourable Sir Joseph Bhore:** I am not acquainted with the work of the Judges of the High Court, but I should certainly think that Judges of the High Court work outside their stated office hours.

**Mr. S. C. Mitra:** Was ever any question raised when successive Judges of the High Court were also Vice-Chancellors of the Calcutta University about their doing only one work exclusively?

**The Honourable Sir Joseph Bhore:** I am afraid I cannot give any reply to that.

**Mr. S. C. Mitra:** Is it not also known to the Government that the Chief Medical Officer has not actually to attend to medical duties, but to supervise the work of other medical officers, and as such he is not required to work beyond specified hours generally?

**The Honourable Sir Joseph Bhore:** It is a fact that his duties are very largely supervisory in character.

**Sir Hari Singh Gour:** Is the Chief Medical Officer a touring officer or is he stationed at a particular place and is like a Judge?

**The Honourable Sir Joseph Bhore:** Obviously he is a touring officer.

**Mr. O. C. Biswas:** Is it not a fact that the present Vice-Chancellor carries on his University duties outside office hours, and that he does not allow the same to interfere with his work as Chief Medical Officer?

**The Honourable Sir Joseph Bhore:** I think that the reply to that question is implicit in the reply I have already given.

**Mr. Lalchand Navalrai:** Will the Honourable Member be pleased to give a direct reply whether, as a matter of fact, this Chief Medical Officer has got sufficient work to do or not?

**The Honourable Sir Joseph Bhore:** I should have thought that my Honourable friend would have already deduced the nature of the reply to his question: we certainly think the Chief Medical Officer has sufficient to occupy his time.

**Lieut.-Colonel Sir Henry Gidney:** Sir, before I raise another supplementary question, with your permission, I should like to make a personal explanation. Sir Muhammad Yakub, in going off the deep end, as he often does, has charged me with making a communal attack on a Muslim. (Interruption by Sir Muhammad Yakub). I do not want any interruptions from you. I am making a statement, not you. You have had your say, I shall make mine despite your uncalled for personal insinuations.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Honourable Member should address the Chair.

**Lieut.-Colonel Sir Henry Gidney:** I beg your pardon, Sir. But, Sir Muhammad Yakub, has gone off the deep end as he often does. I made the statement in the interests of economy and I want to ask the Honourable Member if he will be good enough to give a definite reply to my question, whether, if the holding of these two offices can be done by one man, the Government will recommend amalgamation of the Chief Medical Officers of the East Indian Railway and the Eastern Bengal Railway? The whole purport of my question was to that effect: will the Honourable Member be good enough to give a reply, yes, or no?

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): That question has already been answered.

**Sir Cowasji Jehangir:** Is it not a fact that the duties of the Vice-Chancellor of the University of Calcutta are honorary?

**The Honourable Sir Joseph Bhoré:** They are.

**Sir Cowasji Jehangir:** Is it not also a fact that many hardworked Government officials do honorary duties of this sort in India, both Indians and Englishmen?

**The Honourable Sir Joseph Bhoré:** I believe that that is so.

**Sir Hari Singh Gour:** Is it not a fact that Sir Michael Sadler and his Committee went into the question thoroughly and recommended that the Vice-Chancellorship of the Calcutta University was an onerous office and must be filled by a whole-time servant?

**The Honourable Sir Joseph Bhoré:** I do not pretend to know everything that is contained in the Sadler Commission's Report.

**Sir Cowasji Jehangir:** May I ask the Honourable Member whether a Member of the Government of India is not a pro-Chancellor of the University of Delhi?

**The Honourable Sir Joseph Bhoré:** That is a question that the Department of Education, Health and Lands would be able to answer more accurately than myself.

**Mr. Abdul Matin Chaudhury:** Is it a fact that the late Sir Ashutosh Mukherji, while he was an officiating Chief Justice of the Calcutta High Court, was also holding the post of the Vice-Chancellor of the Calcutta University?

**The Honourable Sir Joseph Bhow:** That, I think, is a very well known fact.

**Lieut.-Colonel Sir Henry Gidney:** There was and is only one Sir Ashutosh Mukherji: there are many Suhrawardis.

**Mr. B. Das:** Arising out of this question, can an Honourable Member, while asking supplementary questions, lose his temper and snap his fingers at another Honourable Member?

**Lieut.-Colonel Sir Henry Gidney:** You practise what you preach.

**Pandit Ram Krishna Jha:** Are Government aware that Justice Macpherson of the Patna High Court is doing both the duties satisfactorily?

**The Honourable Sir Joseph Bhow:** I am not aware of the fact, but I have no doubt that it is so and I will accept my Honourable friend's statement.

**Sir Muhammad Yakub:** Are Government aware that the Honourable Lieut.-Colonel Sir Henry Gidney asked Dr. Sir Hasan Suhrawardy to preside over a meeting in Calcutta and that, late in the evening, the Honourable the Doctor was unable to preside over that meeting and that these attacks on the Vice-Chancellor started after that date?

**Lieut.-Colonel Sir Henry Gidney:** Tomy rot! My demand is two years old.

**The Honourable Sir Joseph Bhow:** May I suggest that my Honourable friend should seek information from the Honourable Lieut.-Colonel Sir Henry Gidney on that point?

#### CONNECTION OF THE IMPERIAL BANK OF INDIA WITH THE GOVERNMENT OF INDIA.

1144. **\*Bhai Parmanand:** Will Government be pleased to state:

- (a) what is the connection of the Imperial Bank with the Government of India;
- (b) what is the number of Indians and Anglo-Indians trained or kept on probation under the scheme since the inception of the Bank in 1920; and
- (c) what is the number of Hindus and Muslims as belonging to various provinces?

**The Honourable Sir George Schuster:** (a) The attention of the Honourable Member is invited to the Imperial Bank of India Act, 1920 (XLVII of 1920), and also to the agreement between the Government of India and the Imperial Bank, of which a copy was laid on the table on the 17th July, 1923.

(b) and (c). Government have no records on these subjects.

**Mr. Lalchand Navalrai:** Has there been no change in the policy since that paper was placed on the table, and does it continue?

**The Honourable Sir George Schuster:** There has been no change in the Act or in the agreement.

**Mr. B. Das:** May I ask whether the agreement with the Imperial Bank which was passed up to 1931 has since been renewed and, if so, for how long?

**The Honourable Sir George Schuster:** My Honourable friend, I think, is aware that the agreement now runs on from year to year, subject to yearly notice of termination.

**Mr. B. Das:** Does that mean that until the Government decide upon having a Reserve Bank, they will go on with the yearly renewal of agreement with the Imperial Bank?

**The Honourable Sir George Schuster:** That does in fact represent the policy of the Government that until the Reserve Bank question is settled, the present agreement with the Imperial Bank shall run on undisturbed. That is really what our position is.

#### ALLEGED INSULTING BEHAVIOUR OF THE EXECUTIVE OFFICER, NOWSHERA CANTONMENT.

1145. **\*Khan Bahadur Haji Wajihuddin:** (a) Has the attention of Government been drawn to an article headed "Alleged Insulting Behaviour of the Executive Officer" published on page 30 of the *Cantonment Advocate* for October, 1932?

(b) Have Government made an enquiry into the incident and taken steps to prevent its recurrence? If so, what steps have been taken?

(c) If no enquiry has been made, are Government prepared to make one without delay and state the true facts?

(d) Is it a fact that the party offended sent representations about the alleged insulting behaviour of the Executive Officer, Nowshera to the President of the Board and to the General Officer Commanding-in-Chief, Northern Command?

(e) What action was taken on these representations? If none, why?

**Mr. G. R. F. Tottenham:** (a) I have not seen the article.

(b) to (e). I have made enquiries and have ascertained that the allegations referred to were withdrawn by their author in December last.

## UNSTARRED QUESTIONS AND ANSWERS.

### PREPONDERANCE OF MUSLIMS IN THE POSTS OF DEPUTY SUPERINTENDENTS AND INSPECTORS OF POLICE IN DELHI.

**180. Sardar Sant Singh:** (a) Will Government please state the number of sanctioned appointments of (i) Deputy Superintendents, (ii) Inspectors of Police including those of the Criminal Investigation Department, and special staff for the Delhi Province?

(b) How many of the appointments referred to at (i) and (ii) above are held by Hindus, Muhammadans and Sikhs?

(c) Will Government please state the ratio of population of the three communities in the Delhi Province?

(d) Do Government realise the preponderance of Muslims in the posts of Deputy Superintendents and Inspectors of Police in Delhi?

(e) What action do Government propose to take to give the Hindus their due share in the appointments referred to above?

**The Honourable Sir Harry Haig:** (a) The numbers of sanctioned appointments are 4 Deputy Superintendents and 11 Inspectors.

(b) Of the 4 Deputy Superintendents, 1 is a European and 3 are Muhammadans. Of the 11 Inspectors, 5 are Europeans, 3 are Muhammadans and 3 are Sikhs.

(c) The population of the three communities in the Delhi province is:

Hindus.	Muhammadans	Sikhs.
4,05,849	2,06,960	6,437

(d) and (e). Vacancies in the ranks of Inspectors and Deputy Superintendents in Delhi are filled by suitable officers from the Punjab cadre who happen to be available at the time. Government have not accepted the position that the selection should be determined by the population ratio of the three communities in the province.

### REPAIRS TO IBBETSON LANE, NEW DELHI.

**181. Sardar Sant Singh:** (a) Is it a fact that a portion of the Ibbetson Lane (road running from the Gole Market to the peons quarters behind the Foch and French Squares) was repaired in 1931-32, and that the same portion has been tarred this year?

(b) Has the President, New Delhi Municipal Committee, seen the portion of the said lane which has not been repaired?

(c) If not, will they please state the reasons for repairing a portion of the road and leaving the rest unrepaired?

(d) When does the New Delhi Municipality propose to repair the un-repaired portion? If not, why not?

**Mr. G. S. Bajpai:** (a) and (b). Yes.

(c) and (d). Owing to lack of funds the whole of lane could not be repaired at the same time. Repairs to the portion of the road referred to

by the Honourable Member will be taken in hand as soon as funds permit.

†182—183.

#### FREQUENT TRANSFERS OF A MUSLIM EMPLOYEE OF THE DEHRA DUN POSTAL DIVISION.

**184. Maulvi Badi-uz-Zaman:** Is it a fact that M. Nazir Hassan Ansari was transferred by Mr. Harbans Lal Jirath, the Superintendent, Post Offices, Dehra Dun Division, about 11 times during the period of 14 months involving the payment of over Rs. 700 as travelling allowance? If so, will Government please intimate the justification of the transfer in question?

**Sir Thomas Ryan:** Government have no information. The matter is within the competence of the Postmaster General, United Provinces, to whom a copy of the question is being sent.

#### MUSLIM ASSISTANTS AND CLERKS IN THE RAILWAY BOARD'S OFFICE.

**185. Mr. M. Maswood Ahmad:** Will Government be pleased to state:

- (a) How many assistants there are in the Railway Board's Office (officiating and permanent) and how many of them are Muslims?
- (b) What is the total number of second Division clerks and how many of them are Muslims?
- (c) What was the total number of Muslim Assistants and second Division clerks in 1925, respectively?
- (d) Will Government please state the reasons for its variation?

**Mr. P. R. Rau:** (a) 27 and 3.

(b) 43 and 7.

(c) Nil and 6.

(d) Casualties and recruitment.

#### INADEQUATE REPRESENTATION OF MUSLIMS IN THE PERSONNEL BRANCHES OF CERTAIN OFFICES OF THE NORTH WESTERN RAILWAY.

**186. Mr. M. Maswood Ahmad:** (a) Is it a fact that the Muslims are very inadequately represented, especially in the higher grades, in the personnel branches of the headquarters, Divisional and extra-Divisional offices of the North Western Railway?

(b) Is it a fact that, as a result of the repeated representations of Mussalmans and by way of reply to several questions on the floor of this House, the Government have on more than one occasion promised to redress the communal inequalities in the personnel branches of the North Western Railway?

(c) If the replies to parts (a) and (b) are in the affirmative, will Government be pleased to state what steps have so far been taken to implement the promises given? Will Government be pleased to place before this House a statement of their endeavours?

(d) Is it a fact that certain Muslim employees belonging to other branches applied for transfer to the Personnel Branch? If so, will Government be pleased to state if it was found possible to entertain any of these applications, and, if not, why not? Are Government prepared to consider them favourably on the occurrence of fresh vacancies?

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† These questions were withdrawn by the questioner.

**Mr. P. R. Rau:** (a) I would refer the Honourable Member to Chapter IV of Mr. Hassan's report on the representation of Muslims and other minority communities in the subordinate railway services.

(b) and (c). I presume my Honourable friend is referring to the speeches made by Mr. Hayman and Sir George Rainy on the 24th and 25th February, 1931, respectively. Extracts from these speeches have been sent to Agents of Railways with the request that the employment of an adequate number of Muslims as Staff, or Establishment, or Employment Officers and also Office Superintendents and Head Clerks, may be borne in mind in making appointments to such posts.

(d) Government have no information, but I am sending a copy of the Honourable Member's question to the Agent of the North Western Railway who is competent to deal with the matters raised therein for such action as may be deemed necessary.

#### UNDUE CONCESSIONS GIVEN TO THE MEMBERS OF THE WORKS COMMITTEE OF THE GOVERNMENT OF INDIA PRESS, NEW DELHI.

187. **Mr. M. Maswood Ahmad:** Are Government aware that the Manager, Government of India Press, New Delhi, gives undue concessions to the members of the Works Committee?

**The Honourable Sir Frank Noyce:** No.

#### MUSLIM LINO-OPERATORS AND READERS IN THE GOVERNMENT OF INDIA PRESS, NEW DELHI.

188. **Mr. M. Maswood Ahmad:** (a) Will Government please state how many lino-operators are Muslims, Hindus, Bengali Hindus and Christians in the Government of India Press, New Delhi?

(b) Will Government please also state how many sets of Muslim Press Readers are in the Press?

**The Honourable Sir Frank Noyce:** (a) Three Muslims, including one learner; 6 Bengali Hindus, including one learner, one other Hindu and two Christians.

(b) There are six Muslim readers, including a reviser who is officiating.

#### THE PROVINCIAL CRIMINAL LAW SUPPLEMENTING BILL —contd.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The House will now resume consideration of the motion:

"That the Bill to supplement the provisions of the Bengal Public Security Act, 1932, the Bihar and Orissa Public Safety Act, 1933, the Bombay Special (Emergency) Powers Act, 1932, the United Provinces Special Powers Act, 1932, and the Punjab Criminal Law (Amendment) Act, 1932, for certain purposes, be taken into consideration."

**Mr. K. O. Neogy** (Dacca Division: Non-Muhammadan Rural): Sir, I rise to oppose this motion. I oppose it, because the measure that is before us is one which is the outcome of a policy to which I am opposed.



[Mr. K. C. Neogy.]

I further oppose this measure, because I am equally opposed to the measures of provincial legislation which this Bill seeks to supplement. My Honourable friend, Mr. Biswas, stated the other day that so far as the question of policy is concerned that has been settled and settled by the Provincial Legislatures, and, therefore, the question that we have to deal with in this House is a very narrow one. I for myself am not prepared to surrender my judgment in favour of the Local Legislatures. As a matter of fact, I have a better conception of the duties of this House than to think that it is merely a kind of an automatic machine which should bring out measures of this character in obedience to the orders of our Lords and masters in the Local Legislatures.

Now, Sir, it has been pointed out that this Bill, while seeking to take away the jurisdiction of the High Court in certain matters, does confer certain privileges on the subject in so far as it provides for appeals in matters in which no appeal is provided in the provincial legislation. Now, it will be found that so far as the privilege of appeal is concerned, it relates only to cases within the jurisdiction of the High Court of Calcutta, because by a provision in the Bengal Public Security Act of 1932, the ~~Bengal~~ Legislature has set up a class of Special Magistrates to try certain offences mentioned in that Act, and that the right of appeal from the decisions of those Magistrates has been restricted by that Act. Now, Sir, this particular clause 2 of this Bill seeks to give the right of appeal to the High Court in certain cases, in cases in which the sentences passed by the Special Magistrates may exceed four years. I should like to know as to whether from the practical point of view there is any great likelihood of any large number of cases coming up in which the sentence passed by the Special Magistrates may exceed four years. If a reference is made to section 18 of the Bengal Act, it will be found that primarily the Special Magistrate is expected to try offences which are offences punishable under this Act, and if we turn to the other provisions of this Act, it will be found that the offences specifically mentioned in the Act are not punishable to any period beyond one year, six months in one case and one year in another being the maximum. Of course, there is a further provision that these Special Magistrates may try offences which may be committed in furtherance of a movement prejudicial to the public security, and the Honourable the Law Member, in giving an illustration of this class of cases, mentioned political dacoities. I have a faint recollection that the Honourable Member himself at one time found it rather difficult to define what a political prisoner was. I am glad to find that my Honourable friend has after all succeeded in finding a definition of political dacoity. Now, Sir, I really wonder whether my Honourable friend was not confusing this measure with another, namely, the Bengal Suppression of Terrorist Outrages Act of 1932 which makes provision for the trial of dacoities and two scores more of offences which are mentioned in the Schedule to that Act. If the Honourable the Law Member will turn to the Bengal Suppression of Terrorist Outrages Act of 1932, he will find that there is a similar provision for the appointment of Special Magistrates for the trial of offences mentioned in that Act, and that, in a Schedule to that Act, there is mentioned a large number of offences of the Penal Code including dacoities. I do not really know whether my friend was seriously putting forward

the suggestion that a dacoity could be committed in furtherance of the movement which is contemplated in the Public Security Act as distinct from the Suppression of Terrorist Outrages Act. Now, Sir, if my friend's contention is to be taken seriously, section 18, second part of section 18 of clause 1,—which mentions offences committed in furtherance of a movement prejudicial to the public security,—if that is to be interpreted according to the dictum laid down by the Honourable the Law Member, then this would cover very many sections of the Indian Penal Code. Do I take it then that by this Act of the Bengal Legislature, the Bengal Public Security Act, 1932, the procedure laid down in the Criminal Procedure Code in regard to all those offences has by implication been changed, and that all the offences of the Indian Penal Code which could possibly come within this description could be tried under the special procedure laid down in the Bengal Public Security Act.

My friend, Mr. Biswas, said, referring to another clause of this Bill, whereby the jurisdiction of the Original Side of the High Courts is taken away in regard to taking cognisance of certain cases, that the Provincial Acts have by implication taken away the jurisdiction of the High Court so far as the Appellate Side is concerned. Because, in so far as the Provincial Acts lay down the bar against any suit or proceeding in regard to certain matters to be brought before the District Courts over which the Provincial Legislature had jurisdiction to legislate, they have taken away by implication,—that was the argument of my friend,—the jurisdiction of the Appellate Side of the High Court. And he said that, for the sake of uniformity, for the sake of avoiding a possible anomaly, we must take away the jurisdiction that is yet left to the Original Sides of the different Chartered High Courts. Now, Sir, if we are to be consistent in one matter, why not be consistent in another, and why seek to make a distinction between a sentence of four years and say five years? If in regard to sentences up to four years the appeal lies to the Sessions Court, why give the right of appeal to the High Court in regard to sentences exceeding four years? Why not bring about uniformity, why not invest the Sessions Courts with the right of appeal in regard to all the cases that might be tried by the Special Magistrates? Apart from that, Sir, I would ask my friend, Mr. Biswas, to tell this House from his experience as to the number and proportion of cases in which, particularly in political appeals, he expects the Calcutta High Court, of which he has got first hand knowledge, to upset the decisions of the lower Courts. He can certainly give us an estimate of the proportion of cases in which decisions in political. . . . .

**Mr. O. O. Biswas** (Calcutta: Non-Muhammadian Urban): On a point of personal explanation, Sir. What I said had reference to the provision in the latter part of section 27 of the Bengal Public Security Act, and not the earlier part which says:

"Except as provided in this Act, no proceeding or order purporting to be taken or made under this Act shall be called in question by any Court".

I was not referring to the proceedings in connection with the trials under that Act. I was referring only to possible suits or prosecutions in respect of certain acts done under the Security Act, and my contention was that as no suits or prosecutions could be brought in the mufassil Courts in respect of such matters, these could not come up at all to the High Court.

**Mr. K. C. Neogy:** It was never my intention to misrepresent my Honourable friend. I never said that he was saying any thing with regard to the question of trials. What I said was that on a parity of reasoning and for the sake of uniformity of practice, why not do away with the High Court altogether in regard to appeals. If you want to prevent the original jurisdiction of High Courts from taking cognisance of certain proceedings as contemplated in clause 4, why not take away the jurisdiction of the High Court in regard to appeals also, which is sought to be given by virtue of clause 2 of the present Bill. I say, in the interest of uniformity and consistency, do away with the High Court appeal altogether. That was my argument; and I was inquiring from my Honourable friend, Mr. Biswas, about the percentage of cases in which relief is being obtained at the present moment or has been obtained in the recent past in the Calcutta High Court, particularly in political cases. If we are expected to attach any value to this so-called right of appeal, we must be in a position to find out exactly what it means in practice. In the first place, I say that it is very difficult for us to conceive, as practical men, of instances in which sentences will go beyond four years under the Bengal Act. If there be any such cases, if we are to accept the dictum laid down by the Honourable the Law Member, I wanted to know in what proportion of those appeals does my Honourable friend, Mr. Biswas, expect to get relief for the accused.

Now, Sir, there is one other point, which I want to submit entirely from the practical aspect of the matter. Even Mr. Biswas would be able to tell this House that in numerous instances when people accused of offences of, as the Honourable the Law Member would call, a political character, have been properly tried and either discharged or acquitted by competent Courts in the districts, they have been arrested within the very compound of the Courts themselves. They had no opportunity of leaving the Court compound after the pronouncement of the verdict of the Judges either acquitting or discharging them. I take it that the argument in favour of this clause is that in certain cases in which persons may be convicted of an offence under the Bengal Act, they would get a chance of getting acquitted on appeal before the High Court. Now, Sir, sufficient has already been done by the executive Government to deprive the district Courts of their prestige and dignity in the manner I have just indicated. I want to spare the High Court that indignity. Is the Honourable the Home Member in a position to get up in this House and give an assurance that in no case in which a person is let off by the High Court, as a result of an appeal, will he be further molested by the police or taken into custody and kept in detention? When I oppose this provision for appeal, I do it in the interest of the accused themselves, because if they get convicted by a Special Magistrate, they are sentenced to a definite term of imprisonment, but if once they are acquitted, and if once they are pounced upon by the police, they are clapped into prison for an indefinite period of time,—it may mean a life long imprisonment. I want to save them from that fate and it is for that reason I vehemently oppose this provision which seeks to give a right of appeal to the accused.

Now, Sir, my Honourable friend, the Law Member, agreeing with my Honourable friend, Mr. Biswas, said referring to clause 4, that in those cases where any person has acted illegally, that is to say, where he has acted outside the provisions of this Act, such a person will not be protected by virtue of clause 4, that is to say, any illegal executive action or

illegal exercise of executive powers will not be protected by this clause. That is the purport of the argument of the Honourable the Law Member who agreed on this point with my Honourable friend, Mr. Biswas. If that be the position, why have a provision like that at all.

If this clause is taken to give no protection to a person who may be acting illegally, then I do not see any special reason why this clause should be incorporated into this measure at all. Sir, let us turn to the wording of the clause itself:

"Except as provided by the Bengal Public Security Act, 1932, as supplemented by this Act, no proceeding or order purporting to be taken or made under the Bengal Public Security Act, 1932, shall be called in question by any Court, and no Civil or Criminal proceeding shall be instituted against any person for anything in good faith done or intended, to be done under the said Act or against any person for any loss," and so on.

Several Honourable Members have already made their submissions on this point, but I should like to invite the Honourable the Law Member to give an interpretation of this clause "purporting to be taken". What does that mean? Does it mean merely a legal act or an action which is taken in the belief that it is sanctioned by the Provincial Act? Now, Sir, the Honourable the Law Member says, the right of testing the legality of executive actions is not at all taken away by this Bill. Now, let us turn to section 3 of the Bengal Act and find out the circumstances in which a proceeding like this would be permissible according to the dictum laid down by the Honourable the Law Member. The section reads thus:

"Any officer of Government, authorised in this behalf by general or special order of the Local Government, may, if satisfied that there are reasonable grounds for believing that any person has acted, is acting or is about to act in furtherance of the objects of any unlawful association or in furtherance of the commission of an offence under section 23 or of any offence, prejudicial to the public security, arrest such person" and so on.

Now, Sir, in what circumstances would it be open to anybody to question the action taken under this particular section? My Honourable friend, Mr. Biswas, said that in the first place the very jurisdiction of the Bengal Legislature could be challenged. That certainly is a conceivable case, but it gives scope for only one suit which would settle this particular point. Now, the only other instance in which an order under section 3 could be challenged would be if an officer who was not authorised by general or special orders would take action under this section. The wording of the section is so wide that the remedy which the Honourable the Law Member says is open to the accused is absolutely no remedy at all; and if I could be permitted to use the expression which the Honourable the Law Member used with reference to the argument of my Honourable friend, Mr. Sen, I would say that it was a most fantastic argument that the Honourable Member put forward in this connection. Now, I am in a very strong position while making my submission on this particular section. Let us take the case which occurred only the other day in regard to the arrests of hundreds of people who were proceeding to attend the Session of the Congress in Calcutta. I understand that action was taken by the Government of Bengal under this section, and I said that I am in a very strong position on this particular point because, in the protest which this House made the other day against their action in that particular connection, we had my friend, Mr. Biswas, voting with us in the same Lobby. Now, I invite my Honourable friend, the Law Member, and my Honourable friend, Mr. Biswas, to enlighten us on the manner in which the validity

[Mr. K. C. Neogy.]

of the action which was taken by the police in that instance—action against which Mr. Biswas protested—is to be tested, and on what basis. Is it to be on the basis as to whether that particular officer was properly authorised? Is it to be on the basis as to whether this particular Act, the Bengal Public Security Act, is a valid legislation which was within the jurisdiction of the Bengal Legislature to pass? Or can this action be tested on any question of merits? That is the test. “Any offence prejudicial to the public security”—says this particular section. Now, I do not find any definition anywhere of the expression, “public security”. What is the meaning of public security, and what is intended to be meant by “any offence prejudicial to the public security”? It will be seen that the widest possible discretion is left to any officer of a particular grade belonging to the police, and it is these men who have been authorised by a general order under this particular section to do certain things. Now, it is left to the discretion of this class of police officers to say whether any person has acted, is acting or is about to act—he must be in a position to divine the thoughts of human beings—in furtherance of the commission of any offence prejudicial to the public security. Now, the judgment of this class of police officers as to whether any person was about to act in furtherance of the objects of any unlawful association or in furtherance of the commission of any offence prejudicial to the public security, is absolutely beyond challenge. If that is the position, I would like my Honourable friend, the Law Member, to tell me what is the practical value of the assurance which he has given that the remedy which the aggrieved people have in regard to instances of executive action will not be affected, so far as acts done, without the legal authority of this Provincial Act, are concerned. Now, my Honourable friend, Mr. Biswas, said that we have to thank for this kind of legislation the people who have brought about the state of social anarchy. I do hope, my Honourable friend on calm reflection would regret the use of this expression, “social anarchy”. I do not know what my friend’s general attitude is towards the policy of repression which the Government has been persistently following all these years. I do not know what his attitude would have been, had he been a member of the Bengal Legislative Council which was called upon to pass the Bengal Public Security Act. But so far as I am concerned, so far as most Members on this side are concerned, I may tell my Honourable friend that the difference between him and us on this particular point is most fundamental. We consider that the Government policy in regard to the general political situation in the country is no less responsible for bringing about the state of upheaval which my Honourable friend, Mr. Biswas, describes as a “state of social anarchy”, and the contribution which the Government have themselves been making towards the creation of this political upheaval in the country has been further strengthened by the very weighty contribution from across the seas in the shape of the White Paper. Now, so far as I am concerned, I shall never be a party to any legislation which seeks to do away with the liberty of the subject, and which seeks to lay down any special procedure hampering the prosecution of legal remedies open to the subject in any manner whatsoever; and so far as this particular measure is concerned, I am going to overlook the merits, the so-called merits of any particular clause. I am going to vote blindly against the Government and oppose this measure outright. (Loud Applause from the Opposition Benches.)

**Mr. Muhammad Azhar Ali** (Lucknow and Fyzabad Divisions: Muhammadan Rural): Sir, I find that by clause 8 of this Bill, special powers that have been given to the Special Magistrates in my own Province are sanctioned. That section 14 of the United Provinces Special Powers Act will now be enforced, although not sanctioned so far by this Legislature. But, after the passing of this Bill, sanction will be given and the Bill will apply to the United Provinces, giving no liberty to people to bring in a suit or an appeal before the High Court against anything done by the Magistrates.

Sir, these enactments are bound to create a sort of repercussion and, I am sure, that such harsh and strict measures will mostly have the result of hardening the heads of the public all the more against the Government. Sir, it is a fact known to everyone that Special Magistrates and Honorary Magistrates are appointed only as a rule by way of favouritism. Such powers, if given to such people, as are not at all trained or versed in law, will prove fatal. Many Honorary Magistrates, in fact, know nothing of law or regulations at all. They are not trained as the I. C. S. or the P. C. S. people, and the result always is that their decisions are mostly not only abnormal, but to a great extent—simply because of their having no training in law—erroneous and misplaced. Sir, we had expected that these Federal Courts and other sorts of Courts that are proposed to be established by the White Paper would, to a certain extent, relieve India of these hardships, but what we find is that in the White Paper there is no mention at all of even the principle of the separation of judicial from executive functions. On the other hand we find that every day more and more restrictive rules and regulations are made so as to give more and more extensive powers to the executive. Sir, our sanctioning the powers for the United

12 Noon. Provinces, will, I am sure, work very harshly on the public. Conditions may be different in Bengal and conditions may be different in other places, but I do not see any reason for the extension of these powers to the United Provinces Executive. Those arguments, which have been advanced by my friends from Bengal opposing this motion, do equally apply to my province and I do not see any reason to traverse the same ground again. But it is, indeed, very cruel not to allow the members of the public even to get a redress from their own High Courts by taking undue advantage and throwing the public in the hands of incompetent people. Sir, with these words, I oppose this motion.

**Mr. Gaya Prasad Singh** (Muzaffarpur *cum* Champaran: Non-Muhammadan): Sir, I rise to oppose this motion. My task is lightened by the fact that other Members who have spoken on this side of the House have subjected the provisions of this Bill to a thorough criticism. It would not have been necessary for me to stand up at all had it not been for the fact that my province is also included as coming within the scope of at least one clause of this Bill. Clause 3 says:

“Section 15 of the Bihar and Orissa Public Safety Act, 1933,.....shall have effect as if these sections had been enacted by the Indian Legislature.”

It is, therefore, necessary to see what section 15 of the Bihar and Orissa Public Safety Act is. Now, section 15 of this Act is as follows:

“No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.”

[Mr. Gaya Prasad Singh.]

This, I submit, is a very wide power which has been given by the Local Legislature of my province. Even during the days of the martial law, an Act of Indemnity was passed after the martial law administration had come to a close, but this is giving a *carte blanche* to the officers of the Government beforehand. Under the colour of this provision of the Local Act, it is possible that in political cases the executive officers of the Government might go beyond the legitimate scope of their duties and might be guilty of offences for which there will be no remedy in the hands of the aggrieved people later on. It is, therefore, most objectionable from that point of view. Now, section 15 gives an indemnity to the local officers of the Government, but, as this section cannot affect the jurisdiction of the High Court, opportunity has been taken to extend the provisions of the indemnity to the High Court of Bihar and Orissa, and from that point of view it is open to grave objection. My first and fundamental objection to this measure is that I do not agree with the provisions enacted in the Local Legislature, because the powers taken by the Government, under the provisions of the Local Act, are very wide and are of a drastic and sweeping nature. And, in so far as the present Bill is intended to supplement the provisions of the Acts of the Local Legislature, I have very strong objection to them. In many cases the appeal to the High Court is barred. That also, I submit, is a most serious encroachment upon the rights and liberties of the people however limited the extent of those rights and liberties may be. Under clause 5 of the Bill, the right of *habeas corpus* under section 491 of the Code of Criminal Procedure is also sought to be taken away so far as the Punjab is concerned. My friends from the Punjab have already protested against this provision and all that I wish to say is that I quite agree with them. The right of *habeas corpus* should not be taken away by this Act of the Legislature.

Sir, I have no other remarks to make. My Honourable friend, Sir Abdur Rahim, the distinguished Leader of the Independent Party, has spoken with his usual vigour and has subjected the provisions of this Bill to a thorough criticism. I have no doubt that my revered Leader, Sir Hari Singh Gour, will re-inforce the arguments advanced and also will join us in strongly opposing this measure. I do not suppose that he is thinking of maintaining a discreet silence on this Bill, and I have no doubt that when he will rise to speak, he will give a convincing reply to some of the legal or constitutional points that have been raised by the Honourable the Law Member. Partly, or to a great extent, my Honourable friend, Mr. Neogy, and other Members have also given replies to the legal aspects of the question which has been raised, and I have no doubt that my revered Leader will also join us and take the lead in opposing this measure.

**Mr. B. V. Jadhav** (Bombay Central Division: Non-Muhammadian Rural): Sir, on behalf of the province of Bombay, I wish to raise a protest against the passing of this new measure. In clause 3 of the Bill, the Province of Bombay is particularly mentioned and it is said that section 29 of the Bombay Special (Emergency) Powers Act, 1932, shall have effect as if that section had been enacted by the Indian Legislature. That is to say, in the absence of the provision under this clause 3, section 29

of the Bombay Act will be *ultra vires* and will be inoperative. Now, section 29 runs as follows :

" Except as provided in this Act, no proceeding or order taken or made or purporting to be taken or made or deemed to have been so taken or made under this Act shall be called in question by any Court and no civil or criminal proceeding shall be instituted against any person for anything done or in good faith intended to be done under this Act or against any person or any loss or damage caused in respect to any property wherever possession has been taken under this Act."

These are very wide powers and the Government of India have now realised that the Local Legislatures had no power to enact such a provision and, therefore, they have come before this House to validate those provisions passed by the Local Legislatures. The Ordinance Bill passed in this House as well as in the Local Councils was a measure which did not meet with the approval of a large section of the population. It was an emergency legislation and exorbitant powers were taken under them. Sir, at that time the Government of India did not realise this and gave their sanction to the Local Legislature to introduce such measures, though some of the sections then included were beyond their powers. The powers bestowed upon the Local Governments by the various Legislatures and by the Indian Legislature have been variously interpreted and variously brought into operation in different provinces. The same offence in Bengal is punished with rigorous imprisonment for six months or three months while in the province of Bombay the Magistrates think that those offences merit a very heavy sentence of two years or one year at all events. And some of the Magistrates cannot award three years sentence as under the law they cannot pass a sentence exceeding two years. This thing will go on for some time no doubt until Government realise that this is not the right way to secure the goodwill and sympathy of the people. It is a matter for congratulation, Sir, that the Government of Bengal have come to realise that severity of sentences does not lead to the preservation of peace and order; and although Bengal is at present suffering from an anarchical movement leading to violence, in spite of it, the Government there have kept their head cool and are not resorting to very heavy sentences. The other provinces also will have to realise the same thing; and I congratulate the Government of India as well as that of Bengal on their not taking the disobedience of their recent order of prohibiting a Session of the Congress seriously inasmuch as the Congress leaders who proceeded to Calcutta have been let off without much inconvenience to Government or to the persons concerned. Therefore, I hope, Sir, that better counsel will prevail in future, and in that case I do not think that the Government should insist on this legislation being passed. I, therefore, oppose this Bill.

**Sir Hari Singh Gour** (Central Provinces Hindi Division: Non-Muham-madan): Sir, in one respect I should have been in a somewhat enviable and happy position of keeping my silence, because, while my friends from Bengal, Orissa, Bombay and Punjab to a certain extent are directly affected by the provisions of this Bill, my own province is in no way affected by it. And my friends behind me remind me that even Madras stands exactly in the same position. It is a purely Provincial Criminal Law Supplementary Bill in which first-hand knowledge of the provinces and of the conditions in those provinces has been so aptly described by the provincial representatives that I can only supplement what they have



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got to say by resorting to what I may call the principles of abstract constitutional law; and I think it is upon that point that my friends behind me are anxious that I should make a contribution to this debate.

In the first place, Honourable Members will see that the Provincial Legislative Councils of Bengal and elsewhere have passed legislation of their own. Now, the main provisions of the enactments of the various Local Legislative Councils deal with three aspects of the question. In the first place, they give the executive large powers in respect of certain offences against what is described as menace to public security. In the second place, special tribunals are created by the Local Acts for the trial of those offences. In the third place, a restricted right of appeal is given to the accused upon a conviction. And lastly, if I may be permitted to add, an indemnity in advance is given to the judicial and executive officers doing anything in good faith in pursuance of these Local Statutes. Now, I wish to point out that, so far as the new powers given to the executive over the administration of law as enacted in the Local Councils is concerned, this House you have ruled, Sir, is not to sit in judgment in the sense of questioning the jurisdiction of the Local Councils to enact such laws. The question, therefore, is *res judicata*, as it were, because the Local Councils have passed laws and those laws are all before us. The next question is that the Bengal Government and the other Governments cannot give effect to the full provisions of the Local Acts unless some supplementary legislation is passed by the Central Legislature. Now, if we turn to the provisions of the supplementary Bill we shall find that it deals with two aspects of the question. One is to give the power of appeal which is in the interest of the accused, and the second is to give indemnity which is not in the interest of the subject. My Honourable friend, Mr. Neogy, recognises that so far as the right of appeal is given, limited though it be, it is a right which is in the interest of the accused. What he objects to, and I understand the other Members from the various provinces object to, is the constitution of the special Court for the trial of such offences.

Now, coming as I do from a province in which I was born and brought up all my life, in face of section 30 of the Code of Criminal Procedure which has been paraphrased in these Local Acts, that is to say, powers have been given to First Class Magistrates for the trial of all offences not punishable with death, all I can say is that the general question about giving power to a section 30 Magistrate has been the subject of frequent debate and frequent decisions of this House. In 1922, the Racial Discrimination Committee and the Criminal Procedure Code Amendment Committee decided that Government should take early steps to repeal section 30 and relegate cases, triable by section 30 Magistrates, as they were called to be tried by the Sessions Court with the help of jurors or assessors, as the case may be. Therefore, so far as I am concerned, I cannot reconcile myself to the special constitution of a tribunal for the trial of these cases by a Special Magistrate.

Then comes the next question of the right of appeal. Everybody recognises, and I understand my friends behind me are at one, that the right of appeal is in the interest of the accused. But the point that my friends on the Opposition Benches make is that the right of appeal is not given in all cases and is not given in all cases in which they would

have a right of appeal if they were to be tried in the ordinary way as they would be but for the intervention of these Local Statutes. Now, Sir, the first point, and the point upon which much emphasis has been laid on these Benches and upon which I interjected a remark the day before yesterday to the Honourable the Law Member, when he was giving his exposition on the meaning of clause 4 of the Supplementary Bill, is on the question as to the extent of the indemnity granted in advance to the executive officers. It is perfectly true that, under the law of constitution, *habeas corpus* is suspended in cases of grave national crisis. It is equally true that as to the right of indemnity, an Indemnity Act is passed by the various Parliaments, including the Parliament of Great Britain, but it is always *post facto*. But the point that I made in the November Session and a point that was made from the Opposition Benches, in the course of the debate here, was that the right of indemnity has in this case been granted in anticipation of the offences which the executive officers may commit. In other words, the indemnity had been granted in advance and it is not reconcilable with constitutional propriety. The third point that my friend, Mr. Neogy, has drawn the attention of the House to is also a point I interjected the day before yesterday, namely, an act may be done, an order passed, or an act purporting to be taken or made, under the Bengal Public Security Act. Now, if an executive officer purports to do a certain thing under the Bengal Public Security Act, but it does not come under the Bengal Public Security Act, is he indemnified under section 4? That is the question on which, I am sure, the Honourable the Law Member and myself will be at one, because if it does not come within the purview of the Bengal Public Security Act, then it cannot be purported to be done, because it would not be done in good faith. Everybody is supposed to know the law, and the executive officer, who handles such a dangerous weapon, as a local and an emergency local Act passed for a period of three years to tide over a national crisis that justifies its enactment, must be aware of the fact that these are special laws, and consequently, they have to be dealt with in a special manner, and if, therefore, he acts under the Bengal Public Security Act when the position did not justify it, I venture to submit that he cannot be said to have purported to have done an act under the colour of his authority and *bond fide*. That, I submit, will clear up the doubts that arise owing to the language of this section. I have not the slightest doubt that apart from section 4, we had over 10 years ago enacted a measure called the Judicial Officers Protection Act, and the object of that Judicial Officers Protection Act was to protect all judicial officers for anything done *bond fide* in the exercise of their duties, and I venture to submit that, so far as the executive officials are concerned, their indemnification cannot go beyond the terms of the Judicial Officers Protection Act. In other words, when the judicial officer is protected under the Act, known as the Judicial Officers Protection Act, the executive officers cannot be protected further and beyond the rigid terms under which the judicial officer is protected under the Judicial Officers Protection Act, and, if that be the intention, the intention can be made abundantly clear by the Honourable the Law Member or by the Honourable the Home Member when they reply to this debate.

Now, Sir, the last point upon which we would like to draw the attention of the Government is clause 5. The Honourable the Law Member, if I understood him aright, the day before yesterday, when setting out the

[Sir Hari Singh Gour.]

constitutional point of view which justified the enactment of section 5 or clause 5, he said that clause 5 was really not necessary. It was enacted *ex majori cautela*. In other words, it was enacted by way of greater caution that even though the provisions of clause 5 are implicit in the Local Acts, Government want them to be supplemented by the Bill which we are about to enact. If that is so, I would ask Government: "Why keep that thing at all on the Statute-book, if it is only a second string to your bow", and, after all, the second string cannot be required for the next three years. The law itself will cease to operate after 1935. Then, why keep a second line of attack? The necessity for it admittedly is very contingent and indeed very remote. These, I submit, are the observations which I can justifiably make from a safe distance, seeing that I and my province are not affected by the provisions of the local measures to which the provisions of this Bill are supplementary.

**Sir Cowasji Jehangir** (Bombay City: Non-Muhammadan Urban): Mr. President, by no means am I a constitutional lawyer and, therefore, I may be allowed to speak more or less from a common sense point of view on the measure before us. Not only am I not a constitutional lawyer, but I had the misfortune of not being in the House to hear the Honourable the Law Member speak the day before yesterday, nor did I have the opportunity of hearing my Honourable friend, Mr. C. C. Biswas, and, therefore, if I do betray some ignorance, Mr. President, I trust I shall be excused by you and the Honourable House.

Sir, this Bill is called a supplementary Bill. Certain Acts have been passed in certain Provincial Legislative Councils. We are not, I understand, here to revise or amend any sections in any of the Bills which have now become Acts of the Provincial Legislatures. We have talked a great deal about Provincial Autonomy and I venture to suggest that there is no one in this Honourable House who would take up the line that we should now or in the future have the power to reject legislation or amend any Bills that Local Legislatures may consider to their advantage to pass into Acts. Therefore, any criticism of the Acts passed by Local Legislatures appears to me to be outside the sphere of our legitimate duties on the present occasion. Criticisms of what Local Legislatures have done can do no good at this stage. It only shows that Honourable Members who make these criticisms would have been in the minority if they had been in the Local Legislatures at the time when these Bills were being discussed and not so unfortunate as to be in this Honourable House. Beyond that, no useful purpose can be served by these criticisms. Now, coming to the Bill that is before us and looking at it from that point of view, I would ask Honourable Members to consider to what extent this Bill affects the Acts of the Local Legislatures. Suppose this Bill had not been brought forward at all, what would have been the effect on the Acts which this Bill is meant to supplement. So far as I can see, and I am not a lawyer, one clause in the Bill gives the accused the power of appeal to the High Court. I can understand my Honourable friend Mr. Neogy's point of view. I heard him with the greatest attention, and, with his usual lucidity, he made his point so clear that no body could misunderstand him. He said that he would rather do without that appeal to the High Court. That is a point of view which everybody can understand and is a legitimate question that can be raised in this Honourable

House. He would rather that these men were deprived of these privileges, because he considers them not to their advantage. Then, I understand that the other clauses of this Bill have the effect of making certain clauses in the Acts now in existence practicably operative and supplementing them to the extent to which the Local Legislatures would have done had they themselves the power to do so. I really do not know what the effect on the Local Acts would be if the Honourable the Home Member withdrew this Bill. So far as I can see, it would have very little effect except that it would deprive some of the accused of this appeal to the High Court. It might also create a little confusion in the law. The Local Legislatures intended that the High Court should not interfere in the original side in certain matters: that may be contested. There may be legal quibbles raised; but beyond that I do not see that even the Honourable the Home Member, if he chose to, could bring a Bill before this House to affect radically any of the Acts already in existence and passed in 1932. I think that position is the correct position and, if that be the correct position, all this criticism against the Acts themselves is futile. By all means let us deprive, if this Honourable House so chooses, the powers given to some accused to appeal to the High Court: let them deprive them of that privilege and that power; but beyond that this Honourable House can go very little further; and, therefore, by all means, if this is the place to ventilate your views on Acts that have been passed by the Local Legislatures, Honourable Members can take advantage of this opportunity; but it can do no good. It would certainly be in order, if it was not, you, Sir, would have ruled it out. But I do deprecate futile criticisms which can have no effect. I can understand criticisms which would lead to some end; but I cannot understand criticisms which, after all, although they may be in order, in this House, cannot affect Acts that have been already passed by Local Legislatures.

**Sir Muhammad Yakub** (Rohilkund and Kumaon Divisions: Muhammadan Rural): Sir, my Honourable friend, Mr. Azhar Ali, has raised objection against section 14 of the United Provinces Special Powers Act, 1932. My Honourable friend has said that under this section cases would be tried by Special Magistrates who are not trained in law and, therefore, these judgments would be open to criticism.

In the first place, I would ask my Honourable friend to read the Act itself. Probably he is under some misunderstanding. Under the United Provinces Act, no special Courts have been formed to try these cases. Then, section 13 of the United Provinces Act makes it quite clear that no Court other than the Court of a Magistrate of the First Class shall take cognisance of or try any offence under this Act. We know it very well that it is only experienced and trained Magistrates who are vested with powers of First Class Magistrates. We also know that special Honorary Magistrates having first Class powers are mostly retired Deputy Collectors or retired Sub-Judges, who have spent a very great deal of their lives in judicial work and are trained in law. There is another class of Special Magistrates also in the United Provinces who belong to non-official classes; but they are very very few. You will find that Special Magistrates belonging to the non-official classes, having first class magisterial powers, are very few and they are mostly those who have received their training at the Moradabad Training School. We had a training school for Honorary Magistrates, Deputy Collectors and other I.C.S. people, and

[Sir Muhammad Yakub.]

Special and Honorary Magistrates of non-official classes, who wanted to train themselves, were entitled to be admitted to that school and they received training there in criminal work and law; and after that they were invested with powers of a First Class Magistrate. So the objection raised by my Honourable friend as regards the apprehension that these cases will be tried by some untrained lawyers is altogether without any foundation. Then, again, not a single political case, in the United Provinces, has up to this time come to my knowledge, which was tried by any Honorary Magistrate. District Magistrates and Local Governments always take care that political cases are tried by exceptionally capable and trained Magistrates, either District Magistrates themselves or very experienced First Class Magistrates, who have crossed the efficiency bar, and will soon become District Magistrates. (Interruption.) If there were no convictions, probably my friend from Burma would not have been here after the Burma riots of last year: it is the result of convictions which has enabled my learned friend from Burma to save his life and give us the pleasure of his company in this House.

My Honourable friend, Mr. Azhar Ali, has again said something about depriving the people of their right of appeal. Again, I would read section 14 of the United Provinces Act to which reference has been made by my Honourable friend. That section says:

“ Provided also that nothing herein contained shall affect the appellate or revisional power of the Courts under sections 31 and 32 of the Code of Criminal Procedure, 1898.”

I think that my friend had no opportunity to go into this Act, otherwise he would not have raised this objection.

As regards the Bill under discussion, I would only submit that this Bill, if it indicates anything, is one that gives right of appeal to certain persons to whom this right was denied by the Provincial Acts. Whatever may be the argument of my Honourable friend, M. Neogy, I do not think there will be any sane person in this House, or outside, who will deny the provision of appeal to an accused or convicted person. The reasoning of my Honourable friend, if it is taken to its logical length, would be that “convict no man to any sentence except death”, because, by sending a man to jail and keeping him there for two years, you put him to great agony and trouble and, therefore, it is better that his life should come to an end immediately and he should be relieved of all troubles! Probably this is the same sort of argument which my friend, Mr. Neogy, has used. We all know that these Acts are supplementary to the main Criminal Law Amendment Act, which this Assembly passed at its special Session. It was made abundantly clear on that occasion that the provisions contained in that enactment were, no doubt, of a drastic nature. No doubt they were bound to bring hardship upon certain persons. But it was also made abundantly clear that the conditions prevailing in the country were such as justified taking drastic measures. Take the case of my own province, the United Provinces. I would refer my Honourable friend, Mr. Azhar Ali, to a district in the neighbourhood of his home, I mean the district of Barabanki where my friend, Mr. Amir Hussain, is now going as Deputy Commissioner . . . . .

**Mr. Muhammad Azhar Ali:** No; he is not. He is going to Rai Bareli.

**Sir Muhammad Yakub:** Some other gentleman is going, if he is not going. I am glad that he will not have the worry of going to that disturbed district; but what I wanted to say was that the troubles created by the no-rent campaign in the whole of the United Provinces and specially in the district of Barabanki were so great that if the United Provinces Government had not taken drastic measures, there would, I think, have been anarchy in the whole of my province. The result of the prompt measures taken by the United Provinces Government was that since last year we have quite a good and appreciable amount or realisation of revenue and rent, and there is also, to a very large extent, calm and peace in the province, and I must say that the present conditions of a partial peace in the provinces are due to these extraordinary measures which have been taken by the Government of India and the Provincial Government. We cannot say that the revolutionary activities have altogether ceased, or that lawlessness is altogether dead in the country. It has only subsided. It is with the help of these extraordinary measures that Government have been able to restore peace in the country. What has happened in Calcutta is a sufficient answer to the question of my friend from Burma. If these measures are withdrawn before a particular time, that is to say, until these revolutionary activities have ceased, I am sure that lawlessness will again become rampant in the whole country and the introduction of reforms, to which everybody is looking forward, would become very difficult.

Sir, one word more and I have done, and that is about the Act in the United Provinces to which my friend has taken serious objection. Probably he does not know that this Act in the United Provinces did not come into force *ipso facto*, in all the districts. Sub-section (2) of section 1 says this:

“This section and section 2 shall extend to the whole of the United Provinces and the Governor in Council may, by notification in the United Provinces Gazette, extend all or any of the remaining sections to any district or to any part of a State in the United Provinces.”

Therefore, *ipso facto* all the provisions of this Act will not apply to the whole of the United Provinces. Of course, they will be applied to any turbulent districts in which they are considered necessary.

Then, again, we find in sub-section (3) of section 1 that the Act shall remain in force for one year. So this measure is not to remain permanently or perpetually on the Statute-book, and therefore, I do not think it is right to raise any serious objection to it.

Then, Sir, as regards the indemnity, section 14 of the United Provinces Act makes it clear that no proceeding or order purporting to be taken or made under this Act shall be called in question by any Court and no suit shall be instituted . . . . in good faith under this Act. Therefore, the rights of persons who are molested in bad faith are protected; those officers who have acted in good faith need not be afraid of this measure. Of course, if they have acted *mala fide*, their conduct can be challenged in a Court of law, as it could have been challenged before this Act was passed. With these few remarks, Sir, I consider that the Bill, which is under discussion, is a measure in the right direction, and if it does anything, it gives a right of appeal to certain persons to whom this right was denied by the Provincial Acts, and I, therefore, support the motion before the House

**U Kyaw Myint** (Burma: Non-European): Sir, you might perhaps remember that, at the time of the introduction of this Bill, I lodged a formal protest. I was fully aware at that time that the Province of Burma was not the subject of this particular legislation. Sir, I sought election to this House for various reasons, one of them being my personal education, political and otherwise, and I have been sadly educated during the past two years. At the same time, I take pride in the fact that I have acquired, if nothing else, what I call the All-India eye. I refuse, at any rate on the floor of this House, to look at anything with the provincial eye.

Sir, the last three Honourable speakers have been a great disappointment to me. My agony over the White Paper debate has hardly subsided, it has been augmented this morning, first by the lamentable speech of my revered Leader. My Honourable friend, Mr. Gaya Prasad Singh, must have been exceedingly sorry: he must have greatly regretted the fact that it was he who practically forced my revered Leader to take part in the debate. From first to last, I was not sure whether he was supporting or opposing this Bill. He exhibited an air of detachment which one might admire in the Treasury Benches, but which one really regrets in the person of one's own Leader. On more than one occasion in the course of his speech he said that the Bill had nothing to do with his particular province. Sir, it might interest the House to know that I recently exchanged a word or two with a friend of mine who followed the White Paper debate from the galleries. He buttonholed me as I was going out of the House on the last day and wanted to know why the speeches of Leaders on the Opposition Benches in this House were what he called milk-and-water speeches. I contradicted him. I said that I had not seen any milk in them at all. And that remark, I think, must be applied to the last three speeches I have heard today . . . . .

**Mr. A. H. Ghuznavi** (Decca *cum* Mymensingh: Muhammadan Rural): You mean they were all water?

**U Kyaw Myint**: Yes, and not very clear water, either. (Laughter.)

Sir, I was also greatly disappointed with my Honourable friend, Sir Cowasji Jehangir's speech, because although, I think, he was opposing this Bill, he talked, in the latter part of his speech, of futile criticism. What do we care whether our criticism is futile or not . . . . .

**Sir Cowasji Jehangir**: That is the worst of it.

**U Kyaw Myint**: It is better to have criticised and been overruled than not to have criticised at all. That is our attitude.

**Sir Cowasji Jehangir**: Is it my friend's attitude that in this House his criticism should be futile?

**U Kyaw Myint**: I will answer my Honourable friend, with your permission, Sir. We criticise, and, if our criticism is futile, it is the fault of the Constitution and not ours.

**Sir Cowasji Jehangir**: That means that my friend desires this House to amend or reject local legislation. That is exactly his plea then.

**U Kyaw Myint:** If the Honourable Member will kindly give me a chance of explaining matters, I shall try and convince him. I am trying to be perfectly logical . . . .

**Sir Cowasji Jehangir:** I hope you will try it successfully.

**U Kyaw Myint:** Your hopes will be favoured with success. I have been trying to be perfectly logical. Here, on the floor of this House, we, who sit on the Opposition Benches, when any enactment comes up, must criticise, as representatives of the people, any legislation proposed by the Government. Are we to hold our tongues, simply because Government will not listen to us? Are we to agree silently to the enactment of this legislation? We have got to criticise; we have got to raise a protest, in as emphatic a manner as possible. If the Constitution does not allow us to render our criticism effective, we will wait for a better Constitution, but we shall go on criticising in the meantime. I am perfectly aware, Sir, that even if we throw this Bill out, those Acts of the Local Legislatures will remain law. We cannot help that. I daresay, all these Acts . . . .

**Sir Hari Singh Gour:** There will be no appeal . . . .

**U Kyaw Myint:** There may not be. Sir, my revered Leader says that if we throw out this Bill, we will throw out the right of appeal.

**Mr. K. C. Neogy:** Less briefs.

**U Kyaw Myint:** Mr. Neogy has argued the point at elaborate length. The right of appeal, which is one of the provisions of this Bill, is of no value, as Mr. Neogy has explained. If my revered Leader and my Honourable friend, Sir Cowasji Jehangir, have failed to appreciate Mr. Neogy's point, it is their fault and not Mr. Neogy's. I understood him.

The third speaker, my Honourable friend, Sir Muhammad Yakub, is such a habitual supporter of Government that his arguments do not need any reply from me. But I should like to give him some information. The riots in Burma subsided, not because of special legislation, not because of the fact that soldiers and police were called out, but because certain elders from both communities advised all the members of the two communities that the riot was pointless and that it had been engineered by English stevedoring firms. I would have survived the riot even if it had taken 20 days instead of the two days it lasted.

Sir, my opposition to this Bill is vehement. We have got to oppose any legislation like this, because this kind of legislation is opposed to the principles of jurisprudence. The British legal system has aroused the admiration of the world—until recently—because of its sense of justice and fair play; but this sort of legislation is neither justice nor fair play. There are sufficient enactments in force already. I can be arrested any day under the ordinary law. You do not require a Bill like this. They cannot arrest me on the floor of the House, but they can "Nab" me at the gate, if I may use that common expression.

There are three fundamentally objectionable provisions in this Bill. The first is the special tribunals. Any legislation that provides for any kind of special tribunal must be opposed. I have seen dozens of special



[U Kyaw Myint.]

tribunals which were held to try rebellion cases in Burma in the past two years and I have a chronic objection to special tribunals, because special tribunals are "special" in more senses than one.

**Sir Cowasji Jehangir:** What legislation provides for special tribunals?

**U Kyaw Myint:** The Provincial Act. Throwing this Bill out will not do away with the Bengal Act, but we cannot allow on the floor of the House anything that savours of special tribunals. We oppose any provision in this Bill relating to special tribunals. On the same grounds, we oppose the right of appeal. The second provision is the suspension of the right of *habeas corpus*. That must be opposed tooth and nail at every stage. The right of *habeas corpus* is one of the fundamental rights given to the subject and one of the most valuable rights. The third is what even my revered Leader called "the indemnity in advance". These three provisions in the Bill, the special tribunals, the suspension of the right of *habeas corpus*, and the giving of indemnity in advance, are sufficient to create opposition in these Benches, whether our criticism is effective or not. The ground has been covered meticulously by Mr. Neogy and other Honourable speakers on this side of the House, and I do not propose to go over the technical aspect of the question. But I do say this as a warning to the British Government, whether they take it or not: when some future historian writes about the Decline and Fall of the British Empire, this emergency legislation will be given a special chapter.

**Mr. Amar Nath Dutt** (Burdwan Division: Non-Muhammadan Rural): I cannot give my support for the consideration of the Bill before the House for reasons which I shall state presently. It has been said that by rejecting this Bill, you will be depriving the accused of the right of appeal. In this connection, I am reminded of a story. A man brought a camel to the market and proclaimed that he would make a free gift of the camel, but when a man asked for the camel from the generous donor, he found a cat tied to the camel and the price of the cat was fixed at Rs. 500 which the donor demanded, as the two were inseparable. The right of appeal in the Bill is like the free gift of the camel. You are given the right of appeal provided you agree to be deprived of all rights of proceeding against those esteemable gentlemen who are to be entrusted with powers to administer the law under this special legislation. If Bengal is placed in this predicament, nothing can be said against Mr. Neogy if he refuses to accept this right of appeal to the High Court. I am sorry that Mr. Neogy has been misunderstood by my Honourable and amiable friend, Sir Cowasji Jehangir, who said that Mr. Neogy said that this right of appeal was of no use.

**Sir Cowasji Jehangir:** I never misunderstood Mr. Neogy. What I said was that I could understand his point of view. You are mistaking me for somebody else.

**Mr. Amar Nath Dutt:** As I am suffering from fever, I mistook my friend for the Knight from Moradabad.

**Sir Muhammad Yakub:** An unhealthy body carries an unhealthy brain. Therefore, I do not object.

**Mr. Amar Nath Dutt:** Mr. Neogy meant that not many of these people will be punished for more than four years. They will form a very small percentage of those convicted and still fewer of them are likely to be successful in their appeals to the High Court, knowing as we do the fate of appeals in political cases in any Court whatsoever in British India. And if any of them are acquitted, how long will they be allowed to enjoy their liberty? That was Mr. Neogy's point. My friend, Sir Muhammad Yakub, having probably practised on one side, by pleading for the prosecution and getting convictions, failed to appreciate the point of view of such lawyers as Mr. Neogy who are always in the unfortunate predicament of defending the accused.

**Sir Muhammad Yakub:** The Honourable Member must know that I have never practised on the criminal side.

**Mr. Amar Nath Dutt:** I bow down to his inexperience in criminal law and procedure. I was surprised that this should act as a bait for any of us to give our support to the whole Bill, for even if this provision of an appeal to the High Court against convictions for more than four years were not there, I submit this provision would have been sufficient if any of the appeals were to be admissible before the District and Sessions Judges as is the case in the case of sentences for less than four years. Am I to understand that District Judges in Bengal are incapable of sitting in appeal over judgments delivered by such eminent bodies of Magistrates, because possibly they have not had the advantage of training in Moradabad? Of course, in Bengal, they have not had the advantage of that training.

**Pandit Ram Krishna Jha** (Darbhanga *cum* Saran: Non-Muhammadan): Why do you not have one in Burdwan?

**Mr. Amar Nath Dutt:** I would like to have such a system. Sir, if these eminent gentlemen are invested with such powers and they choose to punish men by inflicting on them sentences for more than four years, they at once become such eminent criminal Judges that their judgments cannot be understood by a man of the calibre of a District and Sessions Judge who happens to be there, but when it is for less than four years, they can do so. Now, that is a thing which I fail to understand and appears to be very anomalous. Then, I beg to submit that I cannot subscribe to the provisions that are to be found in clause 4 of the Bill, which provides:

"Except as provided in the Bengal Public Security Act of 1932, as supplemented by this Act, no proceedings or order purporting to be taken or made..."

Here I would draw the special attention of the House to the words "purporting to be taken". It means that any order that may be issued by these eminent gentlemen who may be invested with powers under the provisions of this Act of the Bengal Legislature—which I am told we are not to criticise here. . . .

**Mr. S. O. Mitra** (Chittagong and Rajshahi Divisions: Non-Muham-madan Rural): We can criticize, but we cannot say it is *ultra vires* of the local Legislature.

**Mr. Amar Nath Dutt:** Whatever that may be, under the provisions of the Bengal Act, any act done under its provisions becomes a special act and shall not be called in question in any Court and no civil or criminal suit shall lie. Here I beg to submit that if the Law Officers of the Government had properly advised the Honourable the Home Member—who I believe had some training at Moradabad, because he happens to come from the United Provinces—it would have been otherwise. In spite of his possible Moradabad training, I think the Law Officers of the Government might have drawn his attention to a particular Act which is only 88 years old, namely, Act XVIII of 1850, and that Act is named “an Act for the protection of judicial officers”. Of course in common parlance in bar libraries we call it “an Act for the protection of judicial offenders”, but here I find the wording, “an Act for the protection of judicial officers”. Now, here the protection, that has been given, certainly extends to all those officers who are invested with judicial duties and powers under the Bengal Act. It may be said that only those men who are not judicial officers are not protected by this Act. If that be so, then, why not say that? Why do you make this redundant provision of extending the protection to all offenders, all officers, whatever they may be, judicial or otherwise, while there is protection for them in this Act of 1850?

“No Judge, Magistrate, Justice of the Peace, Collector or other person acting judicially shall be liable to be sued in any Civil Court for any act done or ordered to be done by him in the discharge of his judicial duties whether or not within the limits of his jurisdiction”.

provided that he at the time believed himself in good faith to have such jurisdiction. Now, if he merely thinks that under this Act he had jurisdiction, whether he had it as a matter of fact or not, that is enough. If he chooses to think that he has jurisdiction, he is exempt. Then, again, if he purports to order anything under this Act, whether it is in the Act or not, that does not matter, he is protected. So he constitutes himself the sole judge of facts as also the legislator in these matters, because we find in the local Acts that the Magistrates will decide what is for the purposes of security of the public:

“Any officer of Government authorised in this behalf”

—he is not named by general or special order of the Local Government—

“may, if satisfied that there are reasonable grounds for believing that any person has acted, or is acting in furtherance of the commission of an offence or of any offence prejudicial to the public security..”

Now, Sir, I do not know whether Honourable Members opposite who are responsible for the drafting of this Bill are aware of the conditions prevailing in the mufassil and what are the powers of officers of Government there. Now, if any of the Official Members nominated by the Government who hail from the mufassil will choose to state—and there are some on the other side—or to give us a correct impression of how these police officers actually behave and what act they do not do in the mufassil, and in spite of that what protection is ordinarily afforded to them from their immediate superior up to the District Magistrate, if they will frankly state here on the floor of this House from their own knowledge as to what are the real facts, then, I think, Sir, even the Honourable the

Home Member will shudder and then he will find that there is no necessity to grant further protection to these officers who are already beyond the pale of any law Courts whatsoever or of any disciplinary jurisdiction whatsoever. If I have said these things against a particular class of officers, it is because I happen to have 30 years' experience of the mufassil Courts as also of the mufassil itself (Hear, hear), and I speak from personal knowledge. If I were to give here a detailed list of all that has taken place and all that I have personally witnessed from the very beginning of my practice in district Courts up till now, I think the Honourable the Home Member will stay his hands and will cry "halt", and exclaim "we cannot give the police further powers to act in this way. You are already exempt from any punishment whatsoever in spite of our desire to do justice between man and man as you are supposed to protect the people and not to harass them in the way you do".

Sir, I agree with the Honourable the Law Member who, if I remember aright, once observed that it was the substitution of executive judgment for judicial judgment. If that be so, I beg to ask the Honourable the Home Member if the condition of the country is such that it is necessary that the judicial judgment should be replaced by executive judgment. I beg to say, no. The Honourable the Knight from Moradabad has given us to understand that there is perfect peace prevailing in his province. But what he is apprehensive of is that, unless you have this power, there may be recrudescence of anarchy again in his province. Sir, if we are to legislate for future contingencies, which may or may not happen, then, I think, we will not have any rest whatsoever and I think my Honourable friend, the Law Member and his Secretary also will have no rest, not to speak of the Honourable the Home Member. So I take it that it is not for any future contingency that may or may not happen that we are to legislate, but probably the Home Member thinks that the state of the country is such that such legislation is necessary. Sir I beg to submit that the Governors and their Executive Councillors in their wisdom thought it necessary for the purpose of good government of those provinces that the Acts which we want to supplement should be passed. But I would like to know what the people in those provinces do think. It will not do for you to say that the Act was passed in the Legislature in which there is a non-official majority. Now, Sir, the constitutions of these various Legislatures are too well known to be repeated again and again in this House and the Opposition in those Houses however small it may be does represent the true voice of the provinces and the people of India.

**Mr. Muhammad Yamin Khan** (Agra Division: Muhammadan Rural): How?

**Mr. Amar Nath Dutt:** My friend over there asks me how? Sir, Meerut and Moradabad are the only exceptions which have never voiced the popular sentiments of the country.

**Mr. Muhammad Yamin Khan:** My Honourable friend ought to know that in the United Provinces Council there are other places also which are represented in it.

**Mr. Amar Nath Dutt:** Yes, there are other places also, and my Honourable friend from Lucknow . . . . .

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order: The Honourable Member can resume after Lunch.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

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The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) in the Chair.

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**Mr. Amar Nath Dutt:** Sir, I was going through sub-clause (4) of clause 1 of the Bengal Act and I found therein words to this effect:

"Provided that the Local Government shall not direct that any provision of these Chapters shall come into force in any area unless it is satisfied that by reason of a movement subversive of law and order a state of emergency has arisen in that area of such a kind that the existing powers of Government are inadequate for the maintenance of public security."

Sir, it occurred to me that the proviso foreshadows the White Paper. In fact, if we came in possession of the White Paper on the 18th March last, it seems that the Government of Bengal knew full well with what powers they will be vested in the coming Constitution; and till the Constitution comes into existence, as this Act will continue till the year 1935, they have made ample provision that they may exercise the coming powers which they knew full well they will be vested with. And here the Local Government is the sole judge of the situation whether or not an emergency has arisen, when to exercise the powers under the Act and that the existing powers of Government are inadequate for the maintenance of public security. These are very laudable objects no doubt; in fact the desire of Government to maintain law and order is one of the primary functions of Government.

Up till the year 1905, I believe no one had much quarrel with Government save and except with individual officers who might have exceeded their powers under the law; but after the Partition of Bengal, that brilliant measure of that still more brilliant Viceroy, Lord Curzon, during the last 28 years we have seen enactments like this. Of course I do not forget the history of the British Indian legislation when one Viceroy brought about overnight the Press Act, and we remember that a nationalist vernacular paper, the *Amrita Bazar Patrika*, was forced to come out the next day in English instead of in Bengalee. There may be such instances of British Indian legislation, but they were few and far between. Also, Sir, it was a pleasure to know that, after the Viceroyalty of Lord Lytton, we had the Viceroyalty of Lord Ripon, whose name is still remembered with gratitude by the people of this country. Lord Dufferin came after him, and it was his suggestion which gave birth to the Indian National Congress. For when he found that the Indian Constitution had nothing, by which to know the views of the people, he wanted to have an Institution which could give expression to the views of the people of the country, and it was at his suggestion that a Member of the Government of India at that time whose name is still adored in this country, I mean Allan Octavius Hume, who suggested the formation of some sort of an organisation. Our memory goes back to those days

when only 70 delegates from the different parts of India, men of light and leading, beginning with Mr. Dadabhai Naoroji and others, attended the first Congress. The suggestion was first made that Lord Reay, the Governor of Bombay, should preside, but it was Lord Dufferin who suggested that that was not his suggestion but he wanted to have non-official views. Sir, the Congress was started at that time, and its programme in those days was such that neither any one on this side of the House nor any one on the side of Government will in these days oppose. But we remember the volume of opposition that was attempted to be created against that body even in the early years of the Congress at Allahabad. Even the Governor of a province went to the length of putting up some men against it. This is all past history, and during those days there may have been legislation, but never legislation like this. In those days the representatives of the people could inform the Government of what they felt on particular measures and on most occasions Government used to consider those views and respected them even when they could not accede to them. But since 1905 as I was submitting things have gone otherwise. It has created a gulf between the rulers and the ruled, a most undesirable thing, for the rulers exist for the benefit of the ruled and the ruled also ought to know that the best friends to whom they can look up to are the rulers. But what is the position now? The experience of Members of this House since the inauguration of the reforms has been legislation like the one with which we are proceeding in this House. From day to day, year in and year out, we have some sort of reactionary legislation like this brought in this House and we the representatives of the people are asked to give our assent to them. This is certainly not a state of things which is good either for the rulers or for the ruled. As for the rulers they have this one consolation—that they may go away to their own native land and then forget the few years of their service in this country, but for us who have to live in this country and die here, where our bones will rest along with the bones of our forefathers, in what plight do they leave us? I appeal to the Honourable Members on that side to consider the effect if the representatives of the people are asked to assent to repressive legislation like this. This began from the year 1906 or 1907, and the policies that they have been adopting are not only not wise, but hardly worthy of the great race to which they belong.

We know, Sir, that our cries in this House as well as out of this House have been of no avail. They seem to think that we do not offer this advice in any spirit of co-operation, but that we are always for antagonising the Government. I can assure the Government that they may rest content that there is a very vast volume of people, millions of people, who do not subscribe to those views and to those acts which they condemn and along with which we also condemn them, but, at the same time, we do not wish that the only way by which these acts can be put down or put a stop to is legislation like this. On the other hand, Sir, it increases the sore instead of healing it. We have seen how the volume of anarchical opinion and how these terrorist activities have increased. The more repressive legislation, the more we have of it. Whenever you attempted to conciliate, there have been peace and order throughout the country. Sir, if you succumb to the temptation of interested individuals and listen to the voice—the siren voice—of those whom you ought not care to listen, as statesmen, you put this country in a turmoil. Mr. Neogy said that it is the Government which is the main cause of these terrorist activities. If I do not go to that length, still I do say that certain measures of the

[Mr. Amar Nath Dutt.]

Government are responsible for these. I shall give one instance, Sir. One day, I remember, when I was addressing a band of young men, patriotic men, fired with a zeal to serve their motherland and assembled together, I asked them to take to constructive work under the Constitution, instead of bringing disorder and lawlessness in the country. The reply at once came: "Unless we create disaffection in the land, we shall not be able to rouse the masses and the repressive measures of the Government alone will help us more than anything else." I realised that these people really want repression. Why? Because the vast millions of people that are not disaffected towards the Government, and still wish conciliation and co-operation with Government, may be disaffected and their sympathies may be alienated, but, Sir, the Government forget all these. They have been forgetting all these since the year 1906 or 1907. The policy that they have been resorting to is one that has been indicated by Machiavelle in his book, the "Prince". I remember a great predecessor of the Honourable the Home Member, in reply to one of my statements like that, appealed to the Chair and said "Sir, do we look like Machiavelle?" I say: "You do not look like Machiavelle, but some of your acts are such which you unwittingly do and those who do not know you intimately may be tempted to say that your Government is Machiavellian". Sir, one of the principles laid down in that book called "Prince", by that great political philosopher, is that if you want to rule an alien people, the first thing that you ought to do is to divide and rule. You must create in the country a body of men whose interest will be bound up with the interests of the foreigners and with their help you will be able to go on. That is the fundamental principle upon which that philosopher statesman wanted to rule over foreign lands. Here, Sir, in pursuance of that political philosophy or, for any other reason, I find that the Government of India have been following that principle and we find that they have been able to win over, after the year 1905, a class of people amongst us by holding out some bait, some office, some honour, something like that, and at once purchase them. Mr. W. C. Bonnerjee, the first President of the Indian National Congress, even in his wildest dreams never thought an Indian could ever be raised to the British Peerage. You went to the length of raising a member of an Indian Bar to the British Peerage. What was the effect? There were a dozen other aspirants in the Bar which led to consequent demoralization throughout the country. You made men Executive Councillors and what is the effect? I would have been glad if you had the courage to appoint men like Mr. W. C. Bonnerjee, Sir Surendra Nath Banerjee or Mr. Ananda Mohan Bose in their days to those great offices in order to conciliate Indian opinion; but that was not your policy. You wanted to demoralise, as you have been still trying to demoralize the Opposition Benches by a simple bait of a free trip across the seas.

Sir, I beg to submit that neither that policy nor the policy represented by this small Bill is one with which you should govern this country. You should adopt a better policy and try to ascertain the real views and the grievances of the people and conciliate them and I tell you, there is still time, for I believe that England and India are bound to work hand in hand, long long after we are dead and gone, for the mutual benefit of both. Sir, why I have been saying all this? Because I was startled to find a

provision in this Bill which gives immunity to wrong-doers of the worst type—you want to invest a body of officers with powers that are not entrusted by any civilised system of administration. What are those powers? A short perusal of the headings of the different clauses will at once convince you, Sir. Power to seize and detain suspected persons—you will please see that there is no limit—no credential necessary but subserviency is the sole test, for his bread depends upon it:

“Any officer of Government, authorised in this behalf by general or special order by the Local Government, if satisfied that there are reasonable grounds, etc., etc.”

The words are “any officer”. Then, there are powers to control suspected persons, power to prohibit or limit access to certain places, power to prohibit or regulate traffic, power to control posts and telegraphs, power to give effect to orders if disobeyed, and so on. I shall not tire the patience of this House by reading all the powers with which these special officers are vested and to whom you want to give immunity if they go wrong. The Indian Penal Code is full of general exceptions and they are in Chapter IV, beginning from section 76 right up to section 95, excluding the right of private defence which covers some more sections. We find not less than 20 sections in the Indian Penal Code itself giving them immunity, and what are they? Acts done by a person bound, or by mistake of fact believing himself bound, by law—section 76. This section says:

“Nothing is an offence which is done by a person who is, or who by reason of a mistake of fact and not by reason of a mistake of law, in good faith believes himself to be bound by law to do it.”

This is such a wide definition that we, with our humbler brains, have found ourselves often in difficulty to find out what is not covered by this; and, in fact, when we found that the accused was a police officer and the trying Magistrate is not a Magistrate trained at Moradabad, but unfortunate officers like my friends over there, and if we find that his views are that this fellow should not be harassed, we have found that this interpretation of section 76 covers every field of activity in this world. I will not cite instances, the inglorious instances of lapses of officers who have soiled the name of British administration: many names will occur in every province, I think, even in the province of my friend over there who is not in his seat now—Mr. Jadhav who has been kind enough to say that in Bombay the Magistrates are worse than they are in Bengal. I wish it is so: then, at least, my province is safe. Of course I am not saying anything here to please any Bengal official who at one time or other may govern my own district (Laughter): I do not care much, because I have never been a law breaker (Laughter) . . . (*An Honourable Member*: “Why are you not?”), because I have great respect for law and order. The next exception is the act of a Judge when acting judicially:

“Nothing is an offence which is done by a Judge when acting judicially, in the exercise of any power which is, or which in good faith he believes to be, given to him by law.”

Then we have acts done pursuant to the judgment or order of Court:

“Nothing which is done in pursuance of, or which is warranted by the judgment or order of, a Court of Justice, if done whilst such judgment or order remains in force, is an offence, notwithstanding the Court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction.”

I invite my Honourable friend, the Law Member's attention to this last portion of the section. Supposing a judgment is passed that a man



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should be hanged: the man is hanged; and, in spite of that, you can have no remedy against him. Such exceptions show to what extent immunity has been given to officers of the Government. That being so, I appeal to the Honourable the Home Member to say how was it at all necessary to have clause 4 in this Bill. Some of the sections in this Bill seem to be in-offensive. I will not tire the patience of the House by reading all the general exceptions . . . . .

**An Honourable Member:** Read the whole of it.

**Mr. Amar Nath Dutt:** I got it by heart thirty years ago, but since then I want to use it by referring to the section. Certain exceptions occurred to me to which I may draw the attention of Honourable Members opposite, namely, acts of a child under seven years of age and act of a person of unsound mind (Interruptions) and acts of a person incapable of judgment by reason of intoxication caused against his will. (Interruption.) The insinuation of the interruptions seems to be against those Benches opposite; but I do not go to that extent—I have more respect for the Honourable the occupants of the Treasury Benches than some of my friends behind me have; but I beg to submit that this general exception also applies to those officers whom they may invest with powers like these. Can you say that that man is not insane who will be given powers of the nature conferred by an insane Act like this? Is he a man of sound mind? Certainly the Ranchi Mental Hospital would be the proper place for men who are responsible for this sort of legislation (interruption) and if that place is overcrowded, I think the Government of India will be justified in granting more money to these Provincial Governments where such Acts are enacted. But, in the serene atmosphere of this House, composed of Members from every part of the country, composed of Members from provinces which are not affected by this Bill, like my Honourable Leader, who was not, therefore, much interested except in the constitutional aspect of the question and the aspect of constitutional law, is this the proper place where we should be asked to enact such insane or unsound legislation? I will not go to the length of calling it an intoxicating piece of legislation though we are almost intoxicated with legislation day after day like this. That being my view of this Bill, which I could not peruse as thoroughly as I ought to have done, as I have been suffering from fever,

I beg to oppose the motion for consideration of this Bill. If I have said anything which might have wounded the feelings of any of my friends, either on this side or the other side of the House, I would ask them to excuse me. But, at the same time, I would request both my official and non-official friends and the Government not to have anything to do with such Bills.

**Rao Bahadur B. L. Patil** (Bombay Southern Division: Non-Muhamadan Rural): Sir, this is really an unprovoking Bill, and had not the copies of the Provincial Acts been supplied to us, many of the Honourable Members would not have cared to get up in their seats and make speeches. But unfortunately that mistake was committed by the Government, and thus they have provoked a good deal of discussion in the House.

Sir, coming from a province which has also been drawn into the arena of this Bill, I think it is my duty to speak out my mind frankly and, at the

same time, boldly. Sir, it was argued by an Honourable Member belonging to my Party that the provision to which this Bill refers is necessary just to make Provincial Acts workable. In the opinion of my Honourable friend, Sir Cowasji Jehangir, it was necessary, in order to work out the Acts, that these provisions should be sanctioned by this Legislature and he further argued that it would be futile to go into the merits of the various provisions of those Acts. Here I beg to differ from him and I say that it would not be futile to do so, but it would be just the thing if we are to do our duty in this House. Let me advert to a section embodied in the Act passed in the Bombay Provincial Legislature, namely, section 29 of the Act. That Act takes away the powers of the Civil Courts: that Act prevents an aggrieved person from taking any matter to a Court of law and yet we are asked to give our assent to this provision in that Bill. Sir, let me also advert to section 4 of that very Act. There we will see in the marginal note that it is meant to control the suspected persons. Now, what is the nature of the provisions contained in this section? In sub-section (1) of that section, we will see that after the District Magistrate reports to the Local Government, the Local Government can order that a person:

- “(a) shall not enter, reside or remain in any area specified in the order;
- (b) shall reside or remain in any area specified in the order;
- (c) shall remove himself from, and shall not return to, any area specified in the order;
- (d) shall conduct himself in such manner, abstain from such acts, or take such order with any property in his possession or under his control, as may be specified in the order.”

In this connection, I should only like to bring to the notice of this Honourable House some harrowing stories told in the Bombay Legislative Council by the speakers. Let me, first of all, read a few lines that appertain to some events that have taken place in my own district. Mr. Jog in the Bombay Council said:

“Several gentlemen, who have ceased to have anything to do with the Congress, have been served with orders and they are required to go and live away from their usual places. I say that they have ceased to have anything to do with the Congress. But Government might have received some rumour, some report about them, and they are served with orders. These persons are on parole since June and September. They are asked to go and live away from their places. They have to give parole twice or thrice a day. They are doing it. What does it show? It shows that they do not want to take any part in the movement and hence they are submitting to all this humiliation. The point to which I particularly draw the attention of Government is that they are taken to such places that they cannot find good houses to live, where they have no source for their maintenance. Such places the Government officers have selected for these persons to be taken away. And who are these persons? They are 6 pleaders practising in Dharwar. They are taken to places which are called in Dharwar the ‘Andamans’ of Dharwar.”

Sir, I may add that it is not impossible for the officers to send these persons to places where, for example, some epidemic like plague is raging or which are infected with some other disease. Then, Sir, I come to another instance to show what extensive powers are given to the executive. Here are a few sentences from the speech of Mr. C. N. Patel from Bombay. He says:

“The car was seized under the belief that it was the *Samiti* or Congress property. The Congress car was absolutely safe somewhere else. My car was in the same compound in which the Congress car used to be. The Congress were not the only tenants of the premises; there were other tenants in the building, and one of the other tenants had a loan of my car. That car remained with Government, and against all principles of justice that car was driven for the use of police servants, for the use of the Collector, and for the use of several other officers, by an unlicensed driver, with the result that it met with an accident, and it was almost smashed to pieces. When I got back that car, I could not say that it was my car, except that the number plate was there.”

[Rao Bahadur B. L. Patil.]

Sir, I have quoted this to show what would be the effect if this Bill was passed into law. Under section 29 of the Bombay Act, an aggrieved person cannot go to a Court of law for damages. An aggrieved person is helpless; he has no remedy in law. The moment he goes to a Court of law, this section will be pleaded in bar and he is out of Court. In the case of the instance, which I have just now cited, the House will be pleased to note that the unfortunate victim did not get a pice for the damage of his car. Then, Sir, I heard a good deal of the nature of a rigmarole from the Honourable the Law Member on this Bill. He said that anything done outside the four corners of the Act would be, of course, illegal and would be actionable. He forgot very conveniently that the same section contains the words "purporting to be taken or made or deemed to have been so taken or made under this Act". Therefore, in my humble opinion, this section is so drastic that no sane person would agree to its being passed into law. If the consideration of this Bill is pressed to a division, I hope Honourable Members of this House would not forget their duty and would record their protest against this Bill. In the interest of the provinces affected, such enormous powers should not be entrusted to the executive. With these words, I oppose the consideration of the Bill.

**Several Honourable Members:** I move that the question be now put.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): I accept the closure. The question is that the question be now put.

The motion was adopted.

**The Honourable Sir Harry Haig** (Home Member): This Bill involves a number of technical and intricate legal points and not unnaturally the debate has at times become exceedingly technical. Fortunately, my Honourable colleague, the Law Member, has been able, I hope, to guide the House through those technicalities and I shall not attempt to add anything to the exposition of the intentions and effect of the provisions of the Bill which he has so clearly given to the House. I shall confine myself to a few remarks of a more general character.

This morning my Honourable friend, Mr. Neogy, made an attack on the provisions of the Bill relating to the grant of a power of appeal to the Calcutta High Court. My Honourable friend, Mr. Amar Nath Dutt, related a story, I am not quite sure that I caught the whole purport of it, but I understood him to suggest that we were offering the House a camel, but that there was a trap in the offer. My Honourable friend, Mr. Neogy, seemed to think that we were not offering a large and substantial animal like a camel, but something more in the nature of a mouse, for he complained that in fact the provisions relating to appeal would affect very few people. Whether they be many or few, our view is that the provision is required. There may certainly be cases in which trial will be held under the special procedure in the Bengal Act in which a sentence of more than four years' imprisonment may be imposed. Now, I understood my Honourable friend, Mr. Neogy, to say that if a Sessions Judge should be empowered to hear appeals from sentences up to four years, there was

no reason why he should not hear appeals from sentences in excess of four years, and he would prefer to keep the High Court out altogether. What we are doing really is to assimilate the procedure to that which is in force in what are known as section 30 cases, to which my Honourable friend, the Leader of the Nationalist Party, referred. If Mr. Neogy will refer to section 408(b) of the Criminal Procedure Code, he will see that when any Magistrate, specially empowered under section 30 (and these Special Magistrates under the Bengal Act correspond very closely to those), passes any sentence of imprisonment for a term exceeding four years, an appeal shall lie to the High Court. That was the reason why we have inserted that provision. I should like to make plain once more a point which was explained by my Honourable colleague, the Law Member, that in this legislation, that we have placed before the House, we have done nothing to take away the powers of the High Court in regard to ordinary trials. The powers of appeal and of revision in regard to prosecutions and trials remain intact. What we have done is to provide that in the case of the special emergency executive orders that may be passed under the provisions of the Provincial Acts, it should not be open to the High Courts, except in so far as section 107 of the Government of India Act empowers them, to call in question those orders.

Now, Sir, my Honourable friend, Mr. Jadhav suggested, I think, that the Local Governments had embarked on legislation under a misapprehension of the powers of the local Legislatures, and finding those powers were insufficient, had now come to us with a request that they should be supplemented. I should like to correct that point. Local Governments realised from the beginning that this local legislation, initiated in the local Legislatures, should, in certain respects, in order to make it complete, be supplemented by a Bill in the Central Legislature. So far as the local Legislatures had powers over the Courts subordinate to the High Courts, they have exercised those powers. But in relation to the High Courts they have not powers and, therefore, it was necessary to apply to the Government of India to make the provisions complete. My Honourable friend, Sir Cowasji Jehangir, reminded the House that the Acts with which we are dealing are Acts passed on the responsibility of provincial Legislative Councils dealing with the conditions present in those provinces, and I would remind the House they were passed by substantial majorities of those Legislative Councils; and though I think it is Mr. Amar Nath Dutt who queried the representative character of those Members of the Legislative Councils who did not agree with his politics, I am afraid I cannot accept that view. They are the elected representatives of the people in the provinces and they have by substantial majorities passed the Act. I do not think there is any other point of substance that I need deal with. I notice that, as I had anticipated, the proceedings were causing once again agony to my Honourable friend, Mr. Kyaw Myint. The agony, I take it, was not so much induced by the moderation of the speeches as by the fact that he had no personal and individual grievance on this occasion. (Laughter.) I quite appreciate his philosophy of criticism, which he explained to the House, but I trust that, with the introduction of the new Constitution, that philosophy and practice of criticism will become more and more out of date (Applause), and that the ability of the country will be directed more and more into practical and constructive channels. In conclusion, I would say, Sir, that this Bill, so far as we can see, completes the provisions which the Government of India and Local Governments

[Sir Harry Haig.]

have considered necessary,—the special and emergent provisions, which they have considered necessary—for dealing with a very dangerous movement.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty):  
The question is :

“ That the Bill to supplement the provisions of the Bengal Public Security Act, 1932, the Bihar and Orissa Public Safety Act, 1933, the Bombay Special (Emergency) Powers Act, 1932, the United Provinces Special Powers Act, 1932, and the Punjab Criminal Law (Amendment) Act, 1932, for certain purposes, be taken into consideration.”

The Assembly divided :

AYES—51.

Abdul Hye, Khan Bahadur Abul  
Hasnat Muhammad.  
Acott, Mr. A. S. V.  
Ahmad Nawaz Khan, Major Nawab.  
Allah Baksh Khan Tiwana, Khan  
Bahadur Malik.  
Amir Hussain, Khan Bahadur Saiyid.  
Anklesaria, Mr. N. N.  
Anwar-ul-Azim, Mr. Muhammad.  
Bajpai, Mr. G. S.  
Bhore, The Honourable Sir Joseph.  
Biswas, Mr. C. C.  
Clow, Mr. A. G.  
Dalal, Dr. R. D.  
Dutt, Mr. G. S.  
Dutt, Mr. P. C.  
Fox, Mr. H. B.  
Ghuznavi, Mr. A. H.  
Gidney, Lieut.-Colonel Sir Henry.  
Gwynne, Mr. C. W.  
Haig, The Honourable Sir Harry.  
Hezlett, Mr. J.  
Ismail Ali Khan, Kunwar Hajee.  
Jawahar Singh, Sardar Bahadur  
Sardar.  
Lal Chand, Hony. Captain Rao  
Bahadur Chaudhri.  
Leach, Mr. A. G.  
Mackenzie, Mr. R. T. H.  
Megaw, Major General Sir John.

Metcalf, Mr. H. A. F.  
Millar, Mr. E. S.  
Misra, Mr. B. N.  
Mitchell, Mr. D. G.  
Mitter, The Honourable Sir  
Brojendra.  
Morgan, Mr. G.  
Mukherjee, Rai Bahadur S. C.  
Noyce, The Honourable Sir Frank.  
Pandit, Rao Bahadur S. R.  
Rafiuddin Ahmad, Khan Bahadur  
Maulvi.  
Raisman, Mr. A.  
Rajah, Rao Bahadur M. C.  
Rau, Mr. P. R.  
Ryan, Sir Thomas.  
Schuster, The Honourable Sir  
George.  
Scott, Mr. J. Ramsay.  
Seaman, Mr. C. K.  
Sher Muhammad Khan Gakhar,  
Captain.  
Singh, Mr. Pradyumna Prashad.  
Smith, Mr. R.  
Tottenham, Mr. G. R. F.  
Vachha, Khan Bahadur J. B.  
Wajihuddin, Khan Bahadur Haji.  
Yakub, Sir Muhammad.  
Yamin Khan, Mr. Muhammad.

NOES—28.

Abdul Matin Chaudhury, Mr.  
Abdur Rahim, Sir.  
Azhar Ali, Mr. Muhammad.  
Das, Mr. B.  
Dutt, Mr. Amar Nath.  
Gour, Sir Hari Singh.  
Gunjal, Mr. N. B.  
Harbans Singh Brar, Sirdar.  
Jadhav, Mr. B. V.  
Jha, Pandit Ram Krishna.  
Jog, Mr. S. G.  
Kyaw Myint, U  
Lalchand Navalrai, Mr.  
Mitra, Mr. S. C.  
Murtuza Saheb Bahadur, Maulvi  
Sayyid.

Neogy, Mr. K. C.  
Parma Nand, Bhai.  
Patil, Rao Bahadur B. L.  
Ranga Iyer, Mr. C. S.  
Reddi, Mr. P. G.  
Reddi, Mr. T. N. Ramakrishna.  
Sant Singh, Sardar.  
Sen, Mr. S. C.  
Sen, Pandit Satyendra Nath.  
Singh, Mr. Gaya Prasad.  
Thampan, Mr. K. P.  
Uppi Saheb Bahadur, Mr.  
Ziauddin Ahmad, Dr.

The motion was adopted.

Clause 2 was added to the Bill.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is that clause 3 stand part of the Bill.

**Mr. S. C. Mitra**: Sir, I oppose the insertion of this clause, which reads as follows:

"Section 15 of the Bihar and Orissa Public Safety Act, 1933, Section 29 of the Bombay Special (Emergency) Powers Act, 1932, and Section 14 of the United Provinces Special Powers Act, 1932, shall have effect as if these sections had been enacted by the Indian Legislature."

Sir, credit has been claimed for the Provincial Legislatures for passing this legislation. Let them have all that credit by all means for passing any legislation they like for their province. Why should we be asked to share the responsibilities of this irresponsible legislation? It has been shown by this side of the House that the passing of this clause will mean that there will be no remedy in Courts, both Civil and Criminal, against irregularities and illegalities or any unjust act done by the executive. Now, it is clear that the Government have no confidence even in their Courts of law. If the Provincial Legislature thought that they also could not trust the Courts like the Government of India, let them think so, but we should like to make it clear that we, the representatives of the people, do not agree to the curtailment of the powers of the Courts, whether Civil or Criminal, and if anybody wants to have some remedy from these Courts, they have no forum to which they can appeal. With these few words, I oppose this clause.

**Mr. Gaya Prasad Singh**: Sir, I also oppose this clause 3, because it affects my province prejudicially. In the speech which I made a few minutes ago, I pointed out how clause 3 was objectionable. Section 15 of the Bihar and Orissa Public Safety Act has been referred to in this clause. That section reads as follows:

"No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act."

This is a very comprehensive provision. The words "good faith" have not been defined, and in political cases it is very difficult for executive officers to restrict themselves to the limits of the law. Sir, this section 15 is capable of extensive misuse and it affords beforehand indemnity to executive officers who may in future commit acts in excess of their powers. Under these circumstances, as I pointed out a few minutes ago, even when martial law has been proclaimed, the indemnity legislation does not come with the passing of the martial law, but it is passed later on; but here Government attempt to indemnify all their officers for whatever misdeeds they may commit in the course of their official work. Therefore, I object to clause 3 of this Bill.

**Mr. Lalchand Navalrai** (Sind: Non-Muhammadan Rural): Sir, I have already given my full reasons why clause 3 should not be allowed to be inserted in this measure, but to put the whole matter in a nutshell, it is absolutely wrong that the High Courts in this country should be subordinated to the local Legislatures, and the odium for so doing will fall on us, the Legislators. In my opinion, no Constitution will allow such a thing

[Mr. Lalchand Navalrai.]

to be done; even the coming Constitution has not allowed it to be done. I, therefore, strongly oppose this clause.

**Sardar Sant Singh** (West Punjab: Sikh): Sir, this is a most mischievous provision of the Bill. Really speaking, there is no civilized Government on the face of the earth which abrogate the rule of law in favour of their official servants. This clause and the various provisions quoted in this clause which are to be found in the Acts of the local Legislatures abrogate the rule of law and give a free hand to the servants of the Government. (*Some Honourable Members*: "Shame, shame.") As a matter of fact, if the coming Constitution is to be a success at all, such provisions as these will defeat the object for which the Constitution is being given to this country. If the object of giving the new Constitution is to restore peace and goodwill,—and that I suppose is the real object,—if the object is that discontent should give place to contentment among the people, then, if there is anything to defeat the very object of changing the Constitution, it is provisions like these. May I know why such a free hand should be given to the servants of Government to deal with the liberty of the person, to deal with the property of the subject and to behave in a manner which probably may create bloodshed in the country. The provisions that have been framed provide for indemnity. We are not to judge as to what the executive officers do; we are not to know whether the emergency really exists, and we are asked to give these officers a free hand. It has often been repeated from the Benches which are adorned by Honourable Members opposite that people in India are getting out of hand, they have no respect for the judgment of the Courts, and they are out for civil disobedience. May I in turn ask them if they are not practising a sort of civil disobedience against the prestige of the Civil Courts, against the prestige of the High Courts, by proposing such measures? Why should Government be afraid of their Courts? The work of these Government officials will be scrutinised by eminent Judges who are appointed by the Government and who probably look for promotion to them and not to the public? When the public opinion has no voice in the appointment, transfer or dismissal of the Judges, there seems to be the least reason why those Judges should be distrusted by the very officials who appoint them; why should they not be given some control to scrutinise the work of these executive officers who are called upon to administer these repressive laws? I have already submitted my reasons for deletion of this clause, and now I again take this opportunity of strongly opposing the provisions of this clause.

**Mr. Amar Nath Dutt**: Sir, one aspect of the passing of a clause like this has not been as yet discussed and I must respectfully point out that aspect of this clause. As has been already observed, indemnity is generally provided after all the disorders are over in the case of martial law. What I want to submit is this that it is improper that Government officers, who are entrusted with such responsible work, should be told from before to go and do anything they like, for they have not to fear any Court, Civil or Criminal. Knowing human nature as we do, if we give a *carte blanche* like this, there will be all sorts of mischief and naturally there will be all sorts of resentment. To put down that resentment, the man or the officer will

be authorised to perform an unpleasant work and if he is resisted or some obstacle is offered, he will pursue his end with more vigour and abuse his power. That is human nature and I think these officers, whatever may be their position under Government, are also human beings. Not only that; the class of men to whom these powers are likely to be given are men who know the poor inoffensive villagers too well and know how to bring money to their pockets. I think the Honourable Members on the other side will bear me out, when I say that low-paid officers screw out money in many ways from the poorest in the land. This is a thing in which Government are interested. But in things and matters in which Government are not interested, such as settlement work, we know what oppression is practised upon the poor people in the mufassil. In fact some member of the provincial service at one time told me that it was settlement duties which were spoiling the executive, because once they learn the art of making money, they bring it over when they change their office from settlement to that of a Judge. I say all this with a full sense of my responsibility and I would invite any one to come with me and hear details from every village where settlement operations have been going on in my unhappy province. Come with me to any district, and I will show you what amounts are going from the pockets of the poor and illiterate tenants. And, now, if we provide indemnity from before, there will be all the more temptation to tyrannise and oppress, and poor men will have no remedy. That will be the effect of providing for indemnity beforehand. If after anything has been done, we really find that the man has acted in good faith, but perhaps he exceeded his powers a little, certainly the Courts of law and the superior officers will not launch a prosecution. Then why these provisions from before and encourage them in their misdeeds? That is an aspect of the thing which I beg to submit before all the Members of the House in the hope that they will not insist on the insertion of a clause like this.

**Mr. C. C. Biswas:** Sir, there is just one matter that I wish to point out in connection with this clause. If you turn to this clause, you will find it refers to three of these local Acts, the Bihar Act, the Bombay Act and the U. P. Act. Now, Sir, if you turn to the relevant sections of these three Acts, what do you find? Take section 15 of the Bihar Act. That says:

“No ruit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.”

If you turn next to section 14 of the U. P. Act, you find a similar provision. But, in addition to that, there is a further provision and that is that no proceeding or order under that Act shall be called in question by any Court. This additional provision also finds a place in the Bombay Act, section 29. What in fact we find is that whereas there is a provision in all the local Acts that no suit or prosecution shall lie in any Court against any person in respect of any act done or purporting to be done thereunder, it is only in some of the Acts that you find the further provision that no act or proceeding under these Acts shall be called in question in any Court.

Now, Sir, taking the first provision, the provision which is common to all the Acts, what is the position? Suppose there was no question of our passing this Bill here, and the local Acts were all that we had. There



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can be no doubt that the effect of the local Acts is to take away the jurisdiction of all the subordinate Courts in the provinces,—the jurisdiction to entertain any damage suits or prosecutions. Where, however, there is a High Court in any province exercising original jurisdiction, that is not and cannot be affected by the local Acts, and it becomes necessary, therefore, to legislate here for such provinces to bar the jurisdiction of the High Courts therein. Bombay and Calcutta are the only two provinces of this description: and civil suits might be conceivably brought in the High Courts in these provinces, if the local Acts were only there, and no special supplementary legislation was enacted by this Legislature barring their jurisdiction. So far as the other provinces are concerned, provinces where there is no High Court exercising original jurisdiction, the only Courts, as I have pointed out, which are open to any aggrieved party, are the subordinate Courts,—the district Courts,—the mufassil Courts, as we say in Bengal. Well, Sir, their jurisdiction has already been effectively taken away, and, so far, therefore, as this part of these provisions is concerned, no supplementary legislation is called for for these provinces,—no necessity to invoke the aid of this Legislature for the purpose of extending the provisions made in the local Acts. From this point of view, Bihar and the United Provinces might as well have been left out of clause 3 of the Bill, as the Punjab in fact is. But supplementary legislation will no doubt be required for even these provinces, so far as the other provision is concerned,—the provision, namely, which says that no act or proceeding done under these Acts shall be called in question in any Court. Here you require to bar the jurisdiction not only of the district Courts which is done by the local Acts, but also of the High Courts,—not merely of the High Courts, which exercise original jurisdiction, as in Bombay and Calcutta, but of all High Courts in view of section 491 of the Criminal Procedure Code. For, so far as section 491 of the Code of Criminal Procedure is concerned, it extends to the limits of the Criminal appellate jurisdiction of every High Court. That makes it necessary, Sir, to have this Bill, not only for provinces like Calcutta and Bombay, but for the other provinces—to provide that the local enactments should have force in the same way as if they had been enacted by the Central Legislature. That is the position.

**Mr. Lalchand Navalrai:** May I know from the Honourable Member, if he is in favour of clause 3 or against it?

**Mr. C. C. Biswas:** What I am pointing out is, that as regards the provision barring suits or prosecutions, we are in a sense concluded by the local legislation. All that we are now required to do is to assimilate the position so far as certain classes of persons are concerned. But for this Bill, it would be open only to a limited class of persons affected by the local Acts to seek remedy in the High Courts, only a very limited class of persons, I say. As regards the majority, their remedy rightly or wrongly has already been taken away by the local Acts. The question is this—are you going to take away this remedy from a very large class of persons affected by these local Acts, and leave it open only for the benefit of a few? Where you have a High Court exercising original jurisdiction as in Calcutta or Bombay, I say, therefore, it becomes necessary to provide that these Courts will not be competent to entertain any such suits or other proceedings any more than the subordinate Courts.

**Sardar Sant Singh:** May I ask the Honourable gentleman why U. P. is included and not the Punjab in this clause?

**Mr. C. C. Biswas:** What I venture to suggest is that so far as the province of Bihar is concerned, the reference to the Bihar Act might have been altogether left out of this clause. Take the Bihar Act, section 15 of which only says that "No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act". This Act contains no provision to the effect that any proceeding under this Act cannot be called in question in any Court. If there were such a provision in the Bihar Act, then, no doubt, as I have already explained, it would be necessary to invoke the jurisdiction of this House, but that is not so. The Bihar Act, I repeat, merely provides that no suit or prosecution shall lie against any person in respect of any act done under this Act. Now, in Bihar, a suit or a prosecution can be instituted only in a Court which is subordinate to the High Court and which, therefore, comes within the purview of the powers of the local Legislative Council. There is no question of the High Court at all. Therefore, Sir, I say, this province might have been left out altogether from this clause. This is just the reason why you find no reference in clause 3 to section 17 of the Punjab Act. Section 17 also lays down merely that:

"No suit, prosecution, or other legal proceedings whatsoever shall be entertained in any Court against any police officer or person for anything in good faith done, or intended to be done, in pursuance or execution of this Act."

Nothing is said about the other matter, that is to say, that no act or proceeding under this Act may be called in question in any Court. That probably explains why the Punjab Government do not ask for the inclusion of section 17 of the Punjab Act in clause 3. So, I say, Sir, in the same way as the Punjab has been left out, Bihar also might have been left out.

**An Honourable Member:** What about U. P.?

**Mr. C. C. Biswas:** The U. P. could not be left out. It could be left out if section 14 of the U. P. Act was confined merely to providing that no civil or criminal proceeding shall be instituted against any person for anything done or intended to be done, in good faith, under this Act. There is no High Court here, and, therefore, the only Courts you had to provide for for this purpose, i.e., to bar a suit or a prosecution would be the Courts for which the Local Legislature was competent to and did legislate. But, as a matter of fact, the U. P. Act contains a further provision which is now found in Bihar, namely, the provision that no proceeding or order purporting to be taken or made under this Act shall be called in question in any Court. So far as this is concerned, the intervention of this House does become necessary. This is all that I wanted to point out, Sir. So far as this provision is concerned, I repeat, you have got to provide not merely that the subordinate Courts in the provinces shall have no jurisdiction to call in question the acts or orders under these Acts, you want also to provide that section 491 shall not operate; in other words, that the High Courts there will not be competent to deal with these matters in the exercise of their powers under this section, which, as I have pointed out, extend to their appellate jurisdiction. As a matter of fact, you will notice that the Punjab Government have left out all reference to

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section 17 in clause 3, but have asked for a special clause, *i.e.*, clause 5, to take away the powers under section 491. They say in clause 5 that the powers conferred under section 491 of the Criminal Procedure Code shall not be exercised in respect of any person arrested, or committed to or detained in custody. So far as the other provinces are concerned, there is no such express provision in regard to section 491. That is because section 491 is already covered by the general provision that no Court shall be entitled to or call in question any proceeding under these Acts. That is the position.

**The Honourable Sir Brojendra Mitter** (Law Member): May I clear the point, Sir, which has been raised by my friend, Mr. Biswas? Clause 3 is necessary to deal with the powers of the High Court. In so far as the district Courts are concerned, they have been dealt with by the Provincial Acts, but since the Provincial Legislatures could not deal with the powers of the High Court, it is necessary for this Legislature to do so, and clause 3 is intended to deal with the powers of High Courts only, not with the powers of the district Courts which are already covered by the provisions in the Provincial Acts.

**Mr. Lalchand Navalrai:** What is the necessity?

**The Honourable Sir Brojendra Mitter:** I am not dealing with the necessity. Now I am dealing with the legal position, what the scope of clause 3 is. I am not now dealing with the policy of it. Sir, if you take the Behar Act section 15 of which says:

"No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act."

Now, there are three categories mentioned—suit, prosecution or other legal proceeding. So far as the district Courts are concerned, neither a suit, nor a prosecution, nor any other legal proceeding can be entertained by them. The Bihar High Court is an appellate High Court. Therefore no suit or prosecution lies there; but it can entertain legal proceedings other than suits and prosecutions. Take, for instance, a proceeding under section 491. That can lie only in the High Court: it does not lie in the district Courts. Therefore, in so far as other legal proceedings are competent in the High Courts, section 3 covers them. And that is the necessity of clause 3 . . . . .

**Sardar Sant Singh:** May I inquire from the Honourable Member why clause 5 has been restricted to the Punjab alone?

**The Honourable Sir Brojendra Mitter:** Clause 3 does not mention Punjab. What about proceedings under section 491 which may be instituted in the Punjab High Court? For that provision has been made in clause 5.

**Mr. S. C. Sen** (Bengal National Chamber of Commerce: Indian Commerce): Sir, I have listened with great interest to the speech delivered by the Law Member. But I do not understand how he reconciles the inclusion of the United Provinces Bill in clause 3 consistent with section 14 of the Provincial Act.

**The Honourable Sir Brojendra Mitter:** The U. P. Act cannot affect the powers of the Allahabad High Court or the Oudh Court and it is, therefore, necessary to include the United Provinces in section 3.

**Mr. S. C. Sen:** As a matter of fact, the U. P. Act does not purport to limit in any way the power not only of the High Court, but of any of the Courts subordinate to the High Court so far as regards appeal or revision. That is provided for in the proviso to section 14 where it says:

“Provided also that nothing herein contained shall affect the appellate or revisional power of the courts under chapters 31 and 32 of the Code of Criminal Procedure.”

So, under these sections, they never attempted to curtail the power of the High Court in any way and we all know that the United Provinces High Court has not any original jurisdiction. Therefore, it cannot entertain any original suit. Under these circumstances, I do not understand why the indemnity provided in section 14 of the U. P. Act should have also been included in this clause 3.

**Mr. C. C. Biswas:** That proviso refers to the trial of offences under this Act. The High Court's power is reserved in respect thereof.

**Mr. S. C. Sen:** This Act does not provide for anything else: it does not provide for murder cases in villages or for elopement cases. There are certain offences mentioned in the Act and the Act says that, so far as regards the offences mentioned in the Act, the power of the High Court or of the Sessions Court, so far as appeal or revision is concerned, is not affected by the Act.

**Mr. President** (The Honourable Mr. R. K. Shammukham Chetty): The question is:

“That clause 3 stand part of the Bill.”

The Assembly divided:

AYES—51.

Abdul Hye, Khan Bahadur Abul  
Hasnat Muhammad.  
Acott, Mr. A. S. V.  
Ahmad Nawaz Khan, Major Nawab.  
Allah Baksh Khan Tiwana, Khan  
Bahadur Malik.  
Amir Hussain, Khan Bahadur Saiyid.  
Anklesaria, Mr. N. N.  
Bajpai, Mr. G. S.  
Bhore, The Honourable Sir Joseph.  
Biswas, Mr. C. C.  
Clow, Mr. A. G.  
Dalal, Dr. R. D.  
Dutt, Mr. G. S.  
Dutt, Mr. P. C.  
Fox, Mr. H. B.  
Chuznavi, Mr. A. H.  
Gidney, Lieut.-Colonel Sir Henry.  
Gwynne, Mr. C. W.  
Haig, The Honourable Sir Harry.  
Hezlett, Mr. J.  
Ismail Ali Khan, Kunwar Hajee  
Ismail Khan, Haji Chaudhury  
Muhammad.  
Jawahar Singh, Sardar Bahadur  
Sardar.  
Lal Chand, Hony. Captain Rao  
Bahadur Chaudhri.  
Leach, Mr. A. G.  
Mackenzie, Mr. R. T. H.

Megaw, Major General Sir John  
Metcalf, Mr. H. A. F.  
Millar, Mr. E. S.  
Misra, Mr. B. N.  
Mitchell, Mr. D. G.  
Mitter, The Honourable Sir  
Brojendra.  
Morgan, Mr. G.  
Mukherjee, Rai Bahadur S. C.  
Noyce, The Honourable Sir Frank.  
Pandit, Rao Bahadur S. R.  
Rafiuddin Ahmad, Khan Bahadur  
Maulvi.  
Raisman, Mr. A.  
Rajah, Rao Bahadur M. C.  
Rau, Mr. P. R.  
Ryan, Sir Thomas.  
Schuster, The Honourable Sir George.  
Scott, Mr. J. Ramsay.  
Seaman, Mr. C. K.  
Sher Muhammad Khan Gakhar.  
Captain.  
Singh, Mr. Pradyumna Prashad.  
Smith, Mr. R.  
Tottenham, Mr. G. R. F.  
Vachha, Khan Bahadur J. B.  
Wajihuddin, Khan Bahadur Haji.  
Yakub, Sir Muhammad.  
Yamin Khan, Mr. Muhammad.

## NOES—26.

Abdul Matin Chaudhury, Mr.  
 Abdur Rahim, Sir.  
 Azhar Ali, Mr. Muhammad.  
 Das, Mr. B.  
 Dutt, Mr. Amar Nath.  
 Gunjal, Mr. N. R.  
 Jadhav, Mr. B. V.  
 Jha, Pandit Ram Krishna.  
 Jog, Mr. S. G.  
 Kyaw Myint, U  
 Lahiri Chaudhury, Mr. D. K.  
 Lalchand Navalrai, Mr.  
 Mitra, Mr. S. C.  
 Murtuza Saheb Bahadur, Maulvi  
 Sayyid.

Neogy, Mr. K. C.  
 Parma Nand, Bhai.  
 Patil, Rao Bahadur B. L.  
 Ranga Iyer, Mr. C. S.  
 Reddi, Mr. T. N.  
 Ramkrishna.  
 Sant Singh, Sardar.  
 Sen, Mr. S. C.  
 Sen, Pandit Satyendra Nath.  
 Singh, Kumar Gupteshwar Prasad.  
 Singh, Mr. Gaya Prasad.  
 Thampan, Mr. K. P.  
 Uppi Saheb Bahadur Mr.

The motion was adopted.

Clause 3 was added to the Bill.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty):  
 The question is that clause 4 stand part of the Bill.

**Mr. S. C. Mitra:** Sir, I oppose this clause. The clause runs as follows:

"Except as provided in the Bengal Public Security Act, 1932, as supplemented by this Act, no proceeding or order purporting to be taken or made under the Bengal Public Security Act, 1932, shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything in good faith done or intended to be done under the said Act or against any person for any loss or damage caused to or in respect of any property whereof possession has been taken under the said Act."

Sir, it is difficult to understand why our province of Bengal has been given a prominent place, for it has been given a separate clause for itself. Perhaps the reason is that one of the greatest sons of the province is now at the head of legal affairs in the Government of India and so he has given this special prominence to Bengal. It has been just now said that the purpose of this Bill is merely to regularise the actions of some of the Provincial Councils. Referring to the Bengal Public Securities Act, I find that section 27 reads thus:

"Except as provided in this Act no proceeding or order purporting to be taken or made under this Act shall be called in question by any court, and no civil or criminal proceeding shall be instituted against any person for anything in good faith done or intended to be done under this Act or against any person for any loss or damage caused to or in respect of any property whereof possession has been taken under this Act:

Provided that nothing in this section shall affect the jurisdiction of the High Court."

That was the Provincial Act. But now, I think, due to the kindness of the Honourable the Law Member for his province, he wants to take away the little power that was left in the Bengal High Court by making a special provision in this clause. Further, I could not understand his argument why he was so considerate about Punjab. Why has Punjab been excluded from clause 3? So far as I can understand, he could have put in in an omnibus way all the provinces in one clause and take away all the powers of the High Courts. The Honourable the Law Member promised to prove his wisdom why Punjab was not put under this clause, but he has not yet done so. I think the Local Council of Bengal in its wisdom felt that the power of the High Court should not be curtailed, but the Honourable the Law Member, by this provision, has abolished that privilege also. With these words, Sir, I oppose this clause.

**Mr. Muhammad Azhar Ali:** Sir, whenever these terrorist Bills come before this House, we find that somehow bad drafting is the greatest feature of such Bills. This bad drafting may have been due either to hurry, or to carelessness or to the fear in the mind of the drafters of this Bill. When I spoke on this Bill before, I did not purposely refer to the powers of the High Court or to any such powers pointedly that are mentioned in the present Bill. But my friend, Sir Muhammad Yakub, in his turn has touched that point and I submit that it was a wrong touch which he inadvertently made in his vehemence to pass the Bill. Sir, his argument was that the words "good faith" were put in the Act, but we, the practising lawyers of the Courts, whether they be on this side or the other side of the House, who have had occasions to appear before the Sessions Court or the High Court, know what these words mean and how they are acted upon. It may be that those lawyers who have not had the occasion to appear in higher law Courts or who are not very much in the habit of appearing before law Courts, may interpret the words "good faith" in their own way, but those, who know what they mean, can say that they have absolutely no meaning and are never cared for by the Courts. They never listen arguments on that point; they think that "good faith" is never to be interpreted.

Sir, the other point which my Honourable friend, Sir Muhammad Yakub, made was about the training of Special Magistrates. Sir, I do not know whether it is under the rules made by the Government of India or the Local Government that in the school at Moradabad these Honorary and Special Magistrates are given education. I do not know of such cases. Sir Muhammad Yakub may know of such rules, but so far as I guess, it is not compulsory. I take it that they are meant only for those people, who have absolutely no knowledge of law and that those, who do not know really what law is, are sent to such schools. At least in my part of the country I do not find people going to such schools as they may be doing in Moradabad. When I spoke on this motion first, I knew that in the United Provinces the powers of the High Court were not curtailed. The High Court had the revisional powers; they had their appellate powers left intact. The question was raised by Mr. Sen just now and he asked the Honourable the Leader of the House in what way do the United Provinces come into the four corners of this Bill when there is absolutely nothing in the United Provinces Act to curtail the powers of the High Courts.

**Mr. Muhammad Yamin Khan:** On a point or order, Sir. May I ask, how does this clause 4 affect the United Provinces about which my Honourable friend is making his speech?

**Mr. Muhammad Azhar Ali:** The clause, which is under discussion, raises the question of revisional and appellate powers of the High Court and so I am in order. However, as my friend, Mr. Sen, has just asked the question in what way does the United Provinces Act come in this Bill, I too raise the same question and I stick to my former opinion.

**Mr. C. O. Biswas:** There is no doubt that this Bill lacks in symmetry in drafting, because in one Bill you are providing for a number of provinces. The different local Acts have not made the provisions in exactly the same form or in the same words, but in principle there is no difference. Clause 4 does exactly for Bengal what clause 3 which the House has now

[Mr. C. C. Biswas.]

accepted does for the other provinces mentioned in that clause. As the House has accepted clause 3, I do not see how the House can possibly refuse clause 4. The only reason why there is a special provision for Bengal, as has already been explained by the Honourable the Law Member and the Home Member is this, because in the Bengal Act, section 27, the Bengal Legislature went out of its way to insert that provision, just as in this House a suggestion has been made that we ought to insert a provision that nothing that we enact here shall take away the jurisdiction of the High Court under section 107 of the Government of India Act. Similarly, so far as the Bengal Legislature was concerned, they were not competent to take away the jurisdiction of the High Court.

**Mr. S. C. Mitra :** On a point of order. You, Sir, ruled that no Member is permitted to say that the Bengal Legislature did something beyond their power.

**Mr. C. C. Biswas :** I never suggested that the Legislature went beyond its powers. Just as this House wants a provision that nothing contained in this Act will take away the powers of the High Court under section 107 of the Government of India Act, so by way of abundant caution the Bengal Council inserted that provision. But just as it would be open to Parliament, if they so chose, to enact that the powers of the High Court under section 107 may be taken away in regard to these matters, so it is open to this House to legislate that the powers of the High Court under the Criminal Procedure Code should be taken away. That is exactly what is being done. Nothing is being done which has not been done for the other provinces.

**Sir Cowasji Jehangir :** I am afraid I am unable to follow exactly the meaning and purport of this clause 4, nor am I able to follow the exact logic of my friend, Mr. Biswas. We are here trying to supplement a Provincial Act. I believe this point was explained by the Law Member, but unfortunately I was not here to hear it. The Bengal Act has clearly provided in clause 27 of Act XXII of 1932 that the jurisdiction of the High Court shall in no way be affected. Here you go out of your way to provide exactly the contrary. Why should this House, even if it has the power, and I do not deny it has the power, go much further than the Provincial Legislature intended to go. I would ask that question. I want enlightenment. I am quite prepared to do anything that would carry out the intentions of the local Legislature as explained in clause 27, but I see no reason why this House should go any further. Until I get a satisfactory explanation, I am inclined to think that the criticisms that have been levelled against clause 4 seem to be reasonable and just.

**The Honourable Sir Harry Haig :** My answer to the question put to us by my Honourable friend, Sir Cowasji Jehangir, is, I venture to think, quite simple. and in fact I had endeavoured to give it in my opening speech in introducing the Bill. It is merely a drafting point, that the provision relating to Bengal has been put into a separate clause, clause 4, instead of being included in the form which has been adopted for other provinces in clause 3. We should naturally have preferred to include the Bengal provision in clause 3. The reason why we could not do that is, as has been pointed out by Sir Cowasji Jehangir and also by Mr. S. C. Mitra, that a proviso was inserted in the Bengal Act saying—"Provided

that nothing in this section shall affect the jurisdiction of the High Court". Now, the point that is perplexing my Honourable friend, Sir Cowasji Jehangir, and it is perfectly natural, is that he takes this to be a statement of policy by the Bengal Legislature. But, during the discussion in the Bengal Legislature, it was made perfectly plain that this was not a statement of policy but merely a statement of the fact that the Bengal Legislature had no power to affect the jurisdiction of the High Court. That was all that was intended, just as it is proposed that this House should insert later on in the Bill we are now considering a statement that nothing that we have put into our Bill affects the Government of India Act . . .

**Sir Cowasji Jehangir:** Why was this not put in the other local Acts?

**The Honourable Sir Harry Haig:** The point was never raised in those other Legislatures. It was merely in the Bengal Legislature that certain Members raised the point. They said that the Provincial Legislature was going beyond its jurisdiction in passing a clause worded in such a wide way. The Government said: "Very well. We all know, as a matter of fact, that the local Legislature has no jurisdiction to affect the powers of the High Court, but, if you like, we will say so in the Act" and, as I read out to the House before, this was what the Government spokesman said when he accepted that proviso. He said:

"It must be perfectly understood that this proviso is not to be interpreted as interfering with the freedom of the Local Government to obtain the introduction of legislation subsequently by which the jurisdiction of the High Court may be barred."

So, that was perfectly clear to the Bengal Legislature and it was on that understanding that the clause was passed in that form. I hope this has cleared up the point which has been raised by my Honourable friend, Sir Cowasji Jehangir.

**Sir Cowasji Jehangir:** The two things will be inconsistent. This Supplementary Bill that you are passing just now will be inconsistent with clause 27 of the Bengal Act.

**The Honourable Sir Harry Haig:** Not inconsistent.

**Sir Cowasji Jehangir:** This Act says that "nothing in this section shall affect the jurisdiction of the High Court", but here you say exactly the contrary.

**The Honourable Sir Harry Haig:** We are making a special provision. The Bengal Legislature could not affect the jurisdiction of the High Court. They have said so in their local Act. Now, we have the jurisdiction and are taking the power.

**Sir Muhammad Yakub:** My friend, Mr. Azhar Ali, has made a second speech this afternoon without reading the U. P. Act.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Chair cannot allow a discussion on the U. P. on clause 4. I allowed the Honourable Member just to make a passing reference to the U. P. Act, but clause 4 deals with the Bengal Act.



**Sir Muhammad Yakub:** This is what I was going to say. His speech was directed on clause 4, which has nothing to do with the U. P. In his speech he has made another point about the words "good faith" which occurs in the clause. He says that no Court would accept the plea of good faith. My Honourable friend has no faith in the integrity of Indian Judges and the Judges of the High Courts, many of whom are eminent Indian lawyers, whose independence has never been questioned. If my Honourable friend has no faith in the integrity of the Courts, then all this talk about responsible Government to Indians has no meaning in it.

**Mr. Gaya Prasad Singh:** It is a question of loose wording, not a question of integrity.

**Sir Muhammad Yakub:** Well he pointedly said that the plea of good faith was never accepted by Courts, meaning thereby that he did not believe in the integrity of the Courts. Then something was pointed out about special Courts—and I have already said that clause 4 has nothing to do with the United Provinces—because special Courts are not to be constituted in the United Provinces, that it is only in Bengal. Now, my friend here made a second speech simply for the sake of making a speech.

**An Honourable Member:** You have done the same.

**The Honourable Sir Brojendra Mitter:** Sir, I want to make a few remarks on only one point raised by my Honourable friend, Sir Cowasji Jehangir. He seems to suggest that what we are seeking to do here is inconsistent with what the Bengal Legislature has done. I only want to point out that that is not so. What the Bengal Legislature in that proviso has said is this:

"Provided that nothing in this section shall affect the jurisdiction of the High Court",—which, paraphrased, would read like this—

"Nothing which we are doing in Bengal Legislature shall affect the powers of the High Court."

That is not inconsistent with the position that the powers of the High Court may be affected by a different and competent authority. The two are not inconsistent.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Is the House to understand that the Government of India are incorporating clause 4 at the request of the Bengal Government?

**The Honourable Sir Harry Haig:** Yes, Sir, and, further, when the clause was under discussion in the Bengal Legislature, the Bengal Government made it perfectly clear that they were going to ask the Government of India to incorporate that clause.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The position of the Government of India is that the Bengal Government wanted that the jurisdiction of the High Court should be taken away in certain respects; that they could not get that power from the local Legislature; and that, therefore, they have approached the Government of India and this House for the necessary power. Is that the position?

**The Honourable Sir Harry Haig:** That, Sir, is the position with regard to all these local Acts. But I am not sure whether the words you used implied that the Bengal Legislature had objected to granting these powers. All that they said is that "this is not within our power". They have made a mere statement of fact, not a statement of policy.

**Mr. President** (The Honourable Mr. R. K. Sankumukham Chetty): Evidently there is some confusion with regard to clause 4, and, on such occasions, it is the duty of the Chair to intervene to make the position clear. Does the Chair understand the position of the Government to be this, that the Bengal Government wanted certain powers under which the jurisdiction of the Bengal High Court would be taken away, that it was not competent for the Bengal Legislature to give the Bengal Government those powers and that, therefore, the Bengal Government has approached the Government of India to get the sanction of this House?

**Sir Cowasji Jehangir:** Sir, if that was so, there was no necessity to put in this proviso. The statement read out by the Honourable the Home Member appears to have been on behalf of the Bengal Government. We want a statement on behalf of the Bengal Legislature. We are not here to carry out the intentions of the Bengal Government. We are rather here to put the seal on what the Legislature wants. That is my standpoint. I do not wish to interfere with what the Bengal Legislature wants, but we have nothing to do with what the Government of Bengal wants. Therefore, I am not considering the questions on their merits. Here is a local Legislature which has made a certain provision in their Act. It is for us merely to pass a Supplementary Act, if necessary. The Bengal Legislature definitely stated, which no other Legislature has done:

"Provided nothing in this section shall affect the jurisdiction of the High Court."

They go out of their way to say this. But we seek, by a clause in this Bill, to strike those words practically out of the Bengal Act.

**Sir Hari Singh Gour:** Sir, there seems to have been a considerable amount of confusion in the drafting of this clause. Honourable Members will see that here is a very clear enunciation of a principle by the Bengal Legislature that:

"Nothing in this section shall affect the jurisdiction of the High Court."

Now, if Honourable Members will turn to the United Provinces Act, section 14, they will find that there is a similar provision there. In fact the U. P. Act (XIV of 1932) says:

"Provided also that nothing herein contained shall affect the appellate and revisional power of High Courts under Chapters XXXI and XXXII of the Code of Criminal Procedure."

Here you have the local Government wanting not to repeal that clause. In other words, so far as one local Legislature is concerned, the appellate and revisional jurisdiction of the High Courts are safeguarded by the local Legislature, and the local Legislature, having safeguarded those rights, no further action is to be taken by this Legislature. But so far as the Bengal Act is concerned, the Bengal Act has said:

"Nothing in this section shall affect the jurisdiction of the High Court."

[Sir Hari Singh Gour.]

That is the enunciation of a principle, not by the executive, but by the Legislature: and this Legislature can only act if the Bengal Legislature wanted this Legislature to confer a power which the Legislature of Bengal was incompetent to confer; but there is nothing whatever to show that. On the other hand, the language used in clause 4 seems to be somewhat open to objection. Let me read to the Honourable Members the opening sentence:

"Except as provided in the Bengal Public Security Act, 1932, as supplemented by this Act...."

If the intention was to do away with the proviso, I should have expected the draftsman to say:

"Notwithstanding the proviso contained in section 27 of the Bengal Act (XXII of 1932), nothing will give the right of suit", and so on.

That would have been the language, but the opening sentence seems to imply that the rights under section 27 of Act XXII of 1932 are intended to be supplementary and not repealing. That is the position into which we land ourselves. The difficulty is this. I have not been able to see the other Acts, but I have before me the Acts of four Legislative Councils which are sought to be supplemented. The language of these four Acts is not identical; they are all differently worded. There seems to be no one train of thought running through the various local Acts so far as safeguarding the rights of the High Courts are concerned, and the Bengal Act is very explicit. This Legislature, while anxious to supplement anything that the local Legislature has done, is not, I think, prepared to supplement anything that the local executive may demand. I submit that that is the clear position of this part of the House.

**Mr. S. C. Sen:** Sir, the Bengal Act bars all other jurisdiction, but it expressly provides for non-interference with the jurisdiction of the High Court of Bengal. That is contained in the proviso to section 27. Now, what are we going to do here? Whether we have succeeded or not, we purport to amend that section, namely, to have a proviso to repeal that proviso. If that is our intention, I say that will be going beyond the preamble of the present Bill.

The second point is this. The Bengal Government knew it perfectly well so early as December, 1932, after the discussion in this House over the Supplementary Bill in connection with the Terrorist movement that under section 107 of the Government of India Act the High Courts have power of superintendence over all inferior Courts and, therefore, they have revisional powers over all such Courts, but, all the same, I know, as a matter of fact, that the Bengal Government, in spite of the assurance given by the Honourable Member in this House that the proviso to section 107 provides not only for supervision, but also for revisional power, instructed their law officers to argue before the Courts that supervision did not include revision. That was the opinion which the Bengal Government held in December, 1932. The case which was referred to by the Honourable the Law Member was decided by the Chief Justice there, and they came to the conclusion that they could not do anything. Therefore, this proviso was advisedly put by them. As Mr. Biswas says, they went out of their way to put it.

Now, Sir, we do not know whether the Bengal Legislature wants this portion of their Act to be repealed. Unless it is repealed, as Sir Hari Singh Gour pointed out, that proviso also remains a part of the Act, and

nothing we are doing here can affect that proviso. As regards the point raised yesterday, namely, that this House cannot affect the jurisdiction of the High Court, I see some amendment has been put in, and so I shall not say anything on it at present, but I hope that the Government will proceed with that amendment.

**The Honourable Sir Harry Haig:** Sir, as some doubt has been thrown on my assurance that this provision in the Bengal Act was intended merely to clear up the legal authority of the Bengal Council and not to state the policy, I am afraid, I must ask you, Sir, to bear with me when I read out at some length the proceedings in the Bengal Legislative Council. This is what the President said:

"Clauses 19 and 27-A raise practically the same point, namely, barring the jurisdiction of the High Court. The ruling in regard to the point of order which Mr. N. K. Basu raised yesterday with reference to clause 19 which I propose to give now will also govern the point of order which Mr. S. M. Bose has just now raised. Let me tell the House that I did not dispose of Mr. Basu's point of order then and there, because it occurred to me that a properly worded Explanation, if added to clause 19, might effectively remove the doubts that appeared to exist with regard to that clause, and which cast doubts in the mind of Mr. Basu as to the validity of that clause. I thought that it would be expedient to draft such an explanation during the first prayer adjournment and to ascertain the views of the Honourable the Home Member in respect thereof. The Honourable Mr. Prentice, I must tell the House, paid the fullest possible attention to my suggestion, but he requested that the matter might be taken up the next day, and that is why I did not give my ruling yesterday. I naturally agreed to give him some time to think it over and I informed the House accordingly, after we re-assembled after the first prayer adjournment yesterday. I may say at once that when Mr. N. K. Basu raised his point of order, I was sure in my mind that the clause under review as drafted, could not take away the jurisdiction of the High Court. It is beyond the shadow of a doubt that the local legislature possesses no power to bar or in any way restrict the jurisdiction of the High Court; even if there is anything in the clause which may appear to affect the jurisdiction of the High Court it is null and void. I might draw the attention of the House to section 80A (7) of the Government of India Act and to the first of the two new paragraphs which were inserted after sub-section (c) of section 84 of the same Act. These clearly support the view that I have taken in the matter, but having regard to the fact that the words which have actually been employed in framing the clauses appear to be rather elastic and ambiguous, I thought that explanations like the ones I am now suggesting should be added to in the clauses in order to clear up any points of doubt that there may be. What I should like the Honourable the Home Member to consider is this: whether he could add something like the following as Explanation to the two clauses to which exception has been taken by the two Honourable Members.

'Nothing in this sub-section--(that was the suggestion made by the Honourable the President)--shall affect the jurisdiction of the High Court unless such jurisdiction is otherwise barred by a competent authority'. A similar explanation should also be added to clause 27A of the Bill. I think that if this is done it should satisfy the two Honourable Members who have raised the points of order, apart from the question of the intrinsic value or merits of the clauses as they stand. The Honourable the Home Member, on the other hand, cannot possibly have any objection to do something like that, as it is the intention of the Government, if I have understood them aright, to affect by these clauses only the jurisdiction of courts under the administrative control of the local government other than the High Court. So I think if the Honourable Member would kindly consider the suggestion I have made and if he is prepared to add to the clauses an explanation like the one I have suggested, there need be no difficulty in the matter.

**The Honourable Mr. W. D. R. Prentice:** I recognise, Sir, that it is the duty of the Government to clear up as many difficulties as possible, and I am willing to do all I can to remove the difficulties that have been pointed out. I would suggest that to clause 19 (2) the following words be added: "Provided that nothing in this sub-section shall affect the jurisdiction of the High Court" and to clause 27-A the following words "provided that nothing in this section shall affect the jurisdiction of the High Court". That ought to make things perfectly clear. But I would also make another thing clear. It must be clearly understood that this proviso is not to be interpreted as interfering with the freedom of the local government to obtaining the introduction of legislation subsequently, by which the jurisdiction of the High Court may be barred, in the same way as subsequent legislation will be introduced in order to supplement clause 18 in respect of appeals. I trust that if these two provisos are inserted all these difficulties will be removed."

**Sir Hari Singh Gour:** May I just point out to the Honourable the Home Member that the difficulty will not be removed at all. Will the Honourable the Home Member read section 124. . . . .

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Will the Honourable Member kindly state his point first? What is the point?

**Sir Hari Singh Gour:** The point I am making is this. Clauses 3 and 4, as the Honourable the Home Member has explained, are now intended to take away the jurisdiction of the High Court in respect of acts mentioned in section 27 of the Bengal Act, and the Honourable the Home Member has read out the discussion that preceded the enactment of this proviso safeguarding the rights of the High Court in the Bengal Council. Now, that difficulty, according to the Home Member, will be removed by the enactment of either clause 3 or 4, because we then are face to face with another section of the Government of India Act, a Parliamentary statute, which this House has no jurisdiction to modify, and it is to this section that I draw the attention of the Government—section 124, clause 1, of the Government of India Act. That says:

“If any person holding office under the Crown in India does any of the following things, that is to say—

(1) if he oppresses any British subject within his jurisdiction or in the exercise of his authority;”

he shall be guilty of, etc.

Now, read this along with section 4.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. Is it the Honourable Member's contention that Government have not succeeded in clause 4 in making the law as tight as it otherwise would be?

**Sir Hari Singh Gour:** That is not my point, Sir. The point that I am making is that, in trying to overrule the Bengal Council, the Government of India are confronted with another difficulty that they in their turn are likely to be overruled by an enactment of the British Parliament, and, therefore, the whole question of the jurisdiction of this Legislature requires to be examined at leisure. The question is, how far this House has got the power to overrule Parliamentary legislation and how far clauses 3 and 4, largely as they are enacted, would not contravene section 124(1). I have not myself considered this question, but it occurred to me just at this moment, and, therefore, I ask the Home Member and the Law Member to examine the situation carefully with the help of the Legislative Department and let us have their considered view at the next sitting of the Assembly. The question is not a simple one.

**The Honourable Sir Brojendra Mitter:** Sir, there is nothing to examine and I propose that we get along with the business.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Government are satisfied with the powers that they get here. The Chair ought to intervene before the question is put and make the position clear as it appears to the Chair. The point of contention of the Honourable Members on the Opposition side is this. According to them the object of the Government is to carry out the intentions of the various local Legislatures and to supplement those intentions in those matters in which

the local Legislatures have no jurisdiction. In considering clause 4, Honourable Members point to the proviso of section 27 of the Bengal Act which provides that it is not the intention of the Bengal Legislature to bar the jurisdiction of the High Court, and, therefore, by clause 4 the Government of India are not attempting to carry out the intention of the Bengal Legislature, but to do the opposite of it. From the explanation given by the Honourable the Home Member and the Honourable the Law Member, the Chair understands the position to be this. The Bengal Government could not ask the Bengal Legislature to enact a clause which was beyond the jurisdiction of the Bengal Legislature. When clause 27, without the proviso, was placed before the Bengal Legislative Council, it was the intention of the Bengal Government to ask the Bengal Legislature to restrict itself to its own jurisdiction. But since a point of order was raised, just as a similar point was raised the other day by Mr. Sen, the Honourable the President of the Bengal Legislative Council wanted evidently to make the position clear and place the matter beyond doubt. He, therefore, advised Government to introduce this proviso. The Government of Bengal have acted accordingly. Now, from these facts this House has no indication of the mind of the Bengal Legislative Council. This House has no evidence as to whether it was the intention of the Bengal Legislative Council to bar the jurisdiction of the High Court or to retain it. Either *suo motu*, or, at the instance of the Bengal Government, the Government

of India want this House to take away the Calcutta High Court's jurisdiction, and clause 4 attempts to do that. The Chair hopes that the position is now clear.

The question is :

“That clause 4 stand part of the Bill.”

The Assembly divided :

AYES—50.

Abdul Hye, Khan Bahadur Abul  
Hasnat Muhammad.  
Acott, Mr. A. S. V.  
Ahmad Nawaz Khan, Major Nawab.  
Allah Baksh Khan Tiwana, Khan  
Bahadur Malik.  
Amir Hussain, Khan Bahadur Saiyid.  
Anklesaria, Mr. N. N.  
Bajpai, Mr. G. S.  
Phore, The Honourable Sir Joseph.  
Biswas, Mr. C. C.  
Clow, Mr. A. G.  
Dalal, Dr. R. D.  
Dutt, Mr. G. S.  
Dutt, Mr. P. C.  
Fox, Mr. H. B.  
Ghuznavi, Mr. A. H.  
Gidney, Lieut.-Colonel Sir Henry.  
Gwynne, Mr. C. W.  
Haig, The Honourable Sir Harry  
Hezlett, Mr. J.  
Ismail Ali Khan, Kunwar Hajee.  
Jawahar Singh, Sardar Bahadur  
Sardar.  
Lal Chand, Hony. Captain Rao Baha-  
dur Chaudhri.  
Leach, Mr. A. G.  
Mackenzie, Mr. R. T. H.  
Megaw, Major General Sir John,

Metcalf, Mr. H. A. F.  
Millar, Mr. E. S.  
Mitchell, Mr. D. G.  
Mitter, The Honourable Sir  
Brijendra.  
Morgan, Mr. G.  
Mujumdar, Sardar G. N.  
Mukherjee, Rai Bahadur S. C.  
Noyce, The Honourable Sir Frank.  
Pandit, Rao Bahadur S. R.  
Rafuddin Ahmad, Khan Bahadur  
Maulvi.  
Raisman, Mr. A.  
Rajah, Rao Bahadur M. C.  
Rau, Mr. P. R.  
Ryan, Sir Thomas.  
Schuster, The Honourable Sir  
George.  
Scott, Mr. J. Ramsay.  
Seaman, Mr. C. K.  
Sher Muhammad Khan Gakhar,  
Captain.  
Singh, Mr. Pradyumna Prashad.  
Smith, Mr. R.  
Tottenham, Mr. G. R. F.  
Vachha, Khan Bahadur J. B.  
Wajihuddin, Khan Bahadur Haji.  
Yakub, Sir Muhammad.  
Yamin Khan, Mr. Muhammad,

## NOES—32.

Abdul Matin Chaudhury, Mr.  
 Abdur Rahim, Sir.  
 Azhar Ali, Mr. Muhammad.  
 Das, Mr. B.  
 Dutt, Mr. Amar Nath.  
 Gour, Sir Hari Singh.  
 Gunjal, Mr. N. R.  
 Ismail Khan, Haji Chaudhury  
 Muhammad.  
 Jadhav, Mr. B. V.  
 Jehangir, Sir Cowasji.  
 Jog, Mr. S. G.  
 Kyaw Myint, U  
 Lahiri Chaudhuri, Mr. D. K.  
 Lalchand Navalrai, Mr.  
 Misra, Mr. B. N.  
 Mitra, Mr. S. C.

Murtaza Saheb Bahadur, Maulvi  
 Sayyid.  
 Neogy, Mr. K. C.  
 Parma Nand, Bhai.  
 Patel, Rao Bahadur B. L.  
 Ranga Iyer, Mr. C. S.  
 Reddi, Mr. T. N. Ramakrishna.  
 Roy, Rai Bahadur Sukhraj.  
 Sant Singh, Sardar.  
 Sarda, Diwan Bahadur Harbilas.  
 Sen, Mr. S. C.  
 Sen, Pandit Satyendra Nath.  
 Shafee Daoodi, Maulvi Muhammad.  
 Singh, Mr. Gaya Prasad.  
 Thampan, Mr. K. P.  
 Uppi Saheb Bahadur, Mr.  
 Ziauddin Ahmad, Dr.

The motion was adopted.

Clause 4 was added to the Bill.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty):  
 The question is that clause 5 stand part of the Bill.

**Sardar Sant Singh:** Sir, this clause affects the jurisdiction of the Punjab High Court. Therefore, Punjab alone is interested in discussing this. I am glad, Sir, . . . . (Some Honourable Members: "We shall all support you.") Some of my friends are supporting the Punjab in getting this clause deleted. The position is this, that section 491 of the Criminal Procedure Code is the only provision in the Criminal Law of the land where the liberty of the subject can be protected against the illegal acts of the executive. That is the only provision in the nature of *habeas corpus*, given to the High Court of Judicature at Lahore. By this clause the executive means to deprive the High Court of this highly valued right. My submission is, Sir, as I said, when discussing the Bill, at its consideration stage, that section 491 of the Criminal Procedure Code can hit the executive only in those cases where their acts are illegal. Clause 2 of the section is quite clear on this point. If the act of the executive officer is not illegal, the High Court has no power to interfere with that act, and, as pointed out by the Honourable the Law Member, the other day, the High Court would summarily reject a petition under section 491, Criminal Procedure Code, if the act of the official is covered by any provision of the local enactment or of the Act of the Central Legislature. This is exactly the position. I quite agree with the Honourable the Law Member that the position is exactly the same as he explained so lucidly the other day. If it is so, why such a provision then?

The local Acts give very extensive powers to the executive to detain or arrest a person. If the executive exercise those powers in a manner provided in the local Acts, the executive need not be afraid of the scrutiny of their acts by the High Court. But in cases of illegal exercise of the powers of arrest and detention, the unfortunate victim has the protection of section 491, Criminal Procedure Code alone. It passes our comprehension why should the executive be freed from all control. Sir, the

liberty of the subject is a very precious matter. It is highly impolitic that first of all extensive powers of repression should be placed in the hands of the executive. Secondly, they should be indemnified in advance by giving them a blank cheque to deal with the liberties of the subjects and, lastly, to crown all, to deprive the High Court even to look into their acts whether these are legal or illegal. I really cannot understand what the intention of the Honourable Member is in asking us to enact this provision when so vast powers have already been given to them under clauses 3 and 4. What it comes to is this: Notwithstanding the provisions of the local Acts, notwithstanding the provisions in the nature of indemnity in advance, the executive says that it shall not be controlled by anybody. How can we be a party to a measure, Sir, which abolishes the liberty of person as well as of property so completely. Mughal despots did not possess greater power. The Czar of Russia was never clothed with greater authority. Their despotism has at least one grace and that is '*nakedness*'. Their despotism never wore any garment of any sham Legislature. But, here, in India, under the garb of a legislative measure, the executive asks for power to rule this land without any law. This amounts practically to this, but I would respectfully and emphatically request the Members of this House to oppose this clause.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Leader of the House will now make a statement in regard to the re-arrangement of the programme of Government business.

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#### STATEMENT OF BUSINESS.

**The Honourable Sir Brojendra Mitter** (Leader of the House): Mr. President, with your permission, I wish to inform Honourable Members of a slight re-arrangement in the programme of Government business. This week we shall go on with the motions necessary for the passing of the Auxiliary Force Bill, the Haj Bill and the Income-tax (Foreign Income) Bill. If there is time, we shall take up the motions for reference to Select Committee of the Indian Medical Council Bill and the Indian Merchant Shipping (International Convention) Bill.

The Assembly then adjourned till Eleven of the Clock on Friday, the 7th April, 1933.





# LEGISLATIVE ASSEMBLY.

*Friday, 7th April, 1933.*

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) in the Chair.

## MEMBER SWORN:

Mr. C. M. Trivedi, O.B.E., M.L.A. (Government of India: Nominated Official).

## QUESTIONS AND ANSWERS.

### CIVIL AERO CLUBS IN INDIA.

1146. **\*Rao Bahadur M. C. Rajah:** (a) Will Government be pleased to state whether the civil aero clubs in India are founded entirely with the idea of creating war reserves?

(b) How much has been spent by the various Indian clubs annually since their foundation; and

(c) (i) the percentage of such money spent on machines or parts;

(ii) the percentage spent on insurance with foreign companies;

(iii) the percentage spent on petrol, oil, or other accessories in companies with non-Indian directorate;

(iv) the percentage spent on non-Indian personnel of the clubs?

**The Honourable Sir Frank Noyce:** (a) The reply is in the negative. Government grants-in-aid have been afforded to the subsidised flying clubs in India since their formation with the objects of popularising civil flying in India, affording facilities and opportunities for the training of Indians as pilots, familiarising the community with the possibility of air transport, and kindred objects.

(b) A statement is laid on the table.

(c) (i) to (iv). The time and labour involved in the collection of the information asked for by the Honourable Member would be incommensurate with the results to be obtained.

Statement showing expenditure incurred by the various flying clubs in India during the years 1929-30 to 1931-32.

Bengal.			Bombay.			Delhi.*			Karachi.			Madras.	
1929-30.	1930-31.	1931-32.	1929-30.	1930-31.	1931-32.	1929.	1930.	1931.	1929-30.	1930-31.	1931-32.	1930-31. 1931-32.	
Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
90,940	99,050	1,07,210	69,710	93,870	99,060	44,270	70,860	1,06,690	67,550	66,340	63,140	42,620	71,190
2,97,200			2,62,640			2,21,820			1,97,030			1,13,810	
Grand Total Rs. 10,92,500													

\* Includes the U. P. Centres at Cawnpore and Lucknow from 1931.

Note.—1. Figures for 1928-29 not available.

2. Punjab Flying Club's accounts have not been completely rendered and are excluded.

**QUALIFICATIONS OF THE DIRECTOR AND DEPUTY DIRECTOR OF CIVIL AVIATION IN INDIA.**

**1147. \*Rao Bahadur M. O. Rajah:** What are the qualifications of the Director and the Deputy Director of Civil Aviation in India, the chief pilot instructors, and the chief ground engineers, respectively, and from what country or countries did each of them qualify?

**The Honourable Sir Frank Noyce:** A statement giving the information asked for by the Honourable Member is laid on the table.

*Director of Civil Aviation in India.*

The qualifications of the Director of Civil Aviation (Mr. F. Tymms, M.C.) are his administrative experience and experience of aviation. The following is a statement of his experience and qualifications :—

Commissioned War Service	. . . . .	1915-19.
Commissioned in Royal Flying Corps	. . . . .	1917.

**Decorations :—**

Military Cross.  
Chevalier of the Order of the Crown.  
Belgian Croix de Guerre.

- |          |  |
|----------|--|
| 1918 . . | British Aviation Mission to the U. S. A.<br>Training and organizing American Air Service in air observation.   |
| 1919 . . | Instructor in Air Navigation at the Royal Air Force School of Navigation.  |
| 1920—27  | Technical Officer in the Civil Aviation Department of the Air Ministry.  |
| 1924 . . | Commanded the Air Section of the Oxford University Arctic Expedition to Spitsbergen.<br>Member of the Air Survey Committee, Great Britain.<br>Part Author of "Flying for Air Survey Photography".<br>Air Ministry Chief Examiner in Navigation for Pilots and Navigators' licences.<br>Part Author of "Commercial Air Transport".  |
| 1927 . . | Appointed Air Ministry Superintendent of the Egypt-India air service.  |
| 1928 . . | Seconded to the Governments of the Sudan, Kenya, Uganda and Tanganyika to survey and organize air routes, including the Cape to Cairo air route, and to organize the administration of civil aviation.   |
| 1928—31  | Chief Technical Assistant to the Director of Civil Aviation, Air Ministry.   |
| 1929—30  | Air Ministry Representative on the Commission to Africa, to survey organize and negotiate the Cape to Cairo Air route.<br>Associate Fellow of the Royal Aeronautical Society.<br>Holder of 1st Class Air Navigator's licence, and Pilot's "A" licence.<br>Author of a number of scientific papers on Navigation, Air Survey, Meteorology, and other technical Aviation subjects. |
| 1931 . . | Appointed Director of Civil Aviation in India.   |

The Director of Civil Aviation qualified in Great Britain and has had experience in many countries.

*Deputy Director of Civil Aviation in India.*

The qualifications of the Deputy Director of Civil Aviation in India (Mr. A. T. E. Eadon) are his experience of flying and organizing aviation operations and particularly his engineering qualifications and experience. The following is a statement of his qualifications and experience :—

- |          |   |
|----------|---|
| 1915—19  | Commissioned War Service.<br>Seconded to Royal Engineers Signal Service, September 1915.  |
| 1916 . . | Appointed Company Commander Army Signal Schools.<br>Seconded to Royal Flying Corps, August 1916.  |
| 1917 . . | Appointed Flight Commander, Royal Flying Corps.<br>Received training as engineer, with Messrs. Marshall Sons & Co., Ltd., Gainsborough. |

- 1923-27 . General Manager, South Lincs Engineering Company Limited.
- 1928 . . Appointed Education Officer to the De Havilland Aircraft Company Ltd., Middlesex. .
- 1929 . . Founded the De Havilland Aeronautical Technical School and appointed its first Principal.  
Appointed Member, Examination and Education Committee Royal Aeronautical Society.
- 1931 . . Appointed Chairman of Ground Engineers Examination Board, Edgware Centre, on behalf of the Air Ministry.  
'B' Pilots Licence (current) 1,800 hours flying experience including 123 hours night flying.  
'A', 'B', 'C', and 'D' Ground Engineers' Licences including Metallurgy, heat treatment and Laboratory testing.  
Member of the Institute of Aeronautical Engineers.
- 1932 . . Appointed Deputy Director of Civil Aviation in India.  
The Deputy Director of Civil Aviation in India qualified in Great Britain.

*Chief Pilot Instructors employed in subsidized Flying Clubs in India.*

Name.	Qualifications.	Country in which originally qualified.	Remarks.
1. Mr. B. M. T. S. Lecto	Qualified as an Instructor under the Indian Aircraft Rules, 1920.	Great Britain	1. <i>Ex-R.</i> A. F. Officer. 2. Passed Central Flying School course in England. Also passed Instruction Course at Gosport. 3. Over 3,500 hours flying experience.
2. Mr. A. I. Riley	Do.	Do.	1. <i>Ex-R.</i> A. F. Officer. 2. Over 4,500 hours flying experience.
3. Mr. L. H. Mason	Do.	Do.	1. <i>Ex-R.</i> A. F. Officer. 2. Passed Central Flying School Course in England. 3. Over 2,600 hours flying experience.
4. Mr. W. H. Vetch	Do.	Do.	1. <i>Ex-R.</i> A. F. Officer. 2. Passed A. S. T. Instructor's Course in England. 3. Over 4,000 hours flying experience.
5. Mr. W. Jones	Do.	Do.	1. <i>Ex-R.</i> A. F. Officer. 2. Passed Gosport training Course. 3. Over 5,000 hours flying experience.
6. Mr. W. Dougall	Do.	Do.	1. <i>Ex-R.</i> A. F. Officer. 2. Holds Instructor's Licence from the Guild of Air Pilots and Navigators of the British Empire. 3. Over 2,300 hours flying experience.

Complete information as to the careers of these officers is not in the possession of the Government of India.

*Chief Ground Engineers employed in subsidized Flying Clubs in India.*

Name.	Qualifications.	Country in which originally qualified.	Remarks.
Mr. R. W. C. Tomlin	Holds Ground Engineer's licence under the Indian Aircraft Rules, 1920, in Categories "A", "B", "C" and "D".	Great Britain	Ex-Royal Air Force Mechanic.
Mr. A. E. Clifford	Do.	Do.	Held a British Air Ministry's licence.
Mr. W. Scott-King	Do.	Do.	Do.
Mr. D. M. Langford	Do.	Do.	Ex-Royal Air Force Leading Aircraftsman.
Mr. M. Hulcoop	Do. and "X".	Do.	Do.

Complete information as to the careers of these engineers is not in the possession of the Government of India.

APPOINTMENT OF INDIANS AS PILOTS AND GROUND ENGINEERS.

1148. **\*Rao Bahadur M. C. Rajah:** (a) How many of the chief pilot instructors in India are Indians and how many are non-Indians?

(b) How many of the chief ground engineers are Indians and how many are non-Indians?

(c) Are Government aware that Indians with better qualifications are available for these posts? How many of such applicants have been turned down by the individual clubs from each of the appointments of pilots and ground engineers?

(d) Have the civil aviation authorities in India instituted separate examinations of their own to which candidates for licences must submit irrespective of foreign diplomas? If so, what is the reason for holding such examinations?

(e) What are the qualifications of those holding such examinations and from where were these obtained?

(f) How many of these examiners were Indians?

(g) Are these examinations intended to prevent candidates from qualifying in foreign countries?

(h) Is it intended to abolish these new examinations? If so, when?

**The Honourable Sir Frank Noyce:** (a) There are six chief pilot instructors employed in subsidised flying clubs in India all of whom are non-Indians. There are, however, four Indian assistant pilot instructors at present in employment and under training for possible future appointment as chief pilot instructors.

(b) There are six chief ground engineers employed in subsidised flying clubs, all of whom are non-Indians. Most of the clubs, however, have Indians employed as assistant ground engineers.

(c) So far as Government are aware there are no Indians with better qualifications available for these posts. The second part of the question does not, therefore, arise.

(d) Candidates for the Indian ground engineer's licences are required to undergo an examination in accordance with the Indian Aircraft Rules, 1920, irrespective of whether they hold foreign ground engineer's licences. The examinations in question are intended solely to test the ability and efficiency of a candidate as a ground engineer, in the interests of public safety.

(e) Examinations are conducted by the technical officers of the Civil Aviation Directorate, whose qualifications were duly approved by the Government of India before they were recruited from England.

(f) There are at present no Indians sufficiently qualified and experienced to conduct such examinations.

(g) There is no restriction on candidates qualifying for licences in foreign countries.

(h) The reference to "new examinations" is not understood as, apart from the examination for the ground engineer's licence, prescribed in the Indian Aircraft Rules, 1920, which it is not proposed to abolish, no other examinations for ground engineers have been laid down.

**Mr. Gaya Prasad Singh:** With regard to part (c) of the question, is it a fact that offers of honorary service from qualified Indians were rejected?

**The Honourable Sir Frank Noyce:** I have no information on the subject.

#### SECRETARIES OF THE VARIOUS CIVIL AVIATION CLUBS IN INDIA.

1149. **\*Rao Bahadur M. O. Rajah:** (a) How many of the principal secretaries of the various civil aviation clubs in India are Indians and how many are non-Indians?

(b) How many of these secretaries occupy posts in companies earning trade revenues from the clubs?

**The Honourable Sir Frank Noyce:** (a) All the Secretaries of the subsidised flying clubs in India are non-Indians. They are appointed by the Committees of the Clubs.

(b) Government have no information.

#### SYSTEM OF MEDICAL EXAMINATION FOR THE APPOINTMENT OF A PILOT.

1150. **\*Rao Bahadur M. O. Rajah:** (a) What is the system of medical examination for the appointment of a pilot?

(b) Have any accidents been reported due to medical errors?

(c) Is it intended to change this system?

(d) Is the change intended to benefit the Indian Medical Service, or the Royal Army Medical Corps officers in India?

(e) Are Government prepared to consider the advisability of suggesting the appointment of independent medical practitioners to these clubs, particularly from amongst the members of the clubs?

**The Honourable Sir Frank Noyce:** (a) The medical requirements which pilots of aircraft are required to satisfy, before they can be granted a licence, are laid down in Schedule II to the Indian Aircraft Rules, 1920, a copy of which has been placed in the Library of the House.

(b) No.

(c) The system of medical examination is based on the requirements laid down in section VI, Annex 'E' to the International Convention relating to the Regulation of Aerial Navigation, dated the 13th October, 1919, which has been ratified by India. Unless a change in the system is notified by the International Commission for Air Navigation no change in the medical examination can be authorised.

(d) Does not arise.

(e) There is no question of appointing any practitioner to a club. Practitioners must have the qualifications prescribed before they can be permitted to carry out the examination of pilots.

**Mr. Uppi Saheb Bahadur:** May I submit, Sir, that the Honourable Member, Mr. Murtuza Saheb Bahadur, has gone to see His Excellency the Viceroy and was expected to be here by 11 o'clock: perhaps he has been detained: I do not know what has happened, and so I request you will kindly allow me to put the questions standing in his name.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Is that the deputation of Muslim Members?

**Mr. Uppi Saheb Bahadur:** Yes.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Under the circumstances, the Chair would allow the Honourable Member to ask the questions.

#### NORMAL WORKING HOURS OF THE GOVERNMENT OF INDIA PRESSES.

1151. **\*Mr. Uppi Saheb Bahadur** (on behalf of Maulvi Sayyid Murtuza Saheb Bahadur): (a) Will Government please lay on the table statements showing the normal working hours of the different Government of India Presses for industrial hands as well as clerical establishment including recess hours and also other Government establishment governed by the Factories Act, such as various factories situated at Cossipur, Ishapur, Jubbulpore, Aravankadu and of other places?

(b) Is it a fact that the uniformity of working hours is not maintained at all in all these establishments of the Central Government? If so, why?

(c) Is it also a fact that the industrial hands of the Government of India Presses are required to work longer hours and the clerical staff shorter hours in comparison with other Government factories? If so, do Government propose to maintain uniformity? If not, why not?



**The Honourable Sir Frank Noyce:** (a) The normal working hours including recess periods in the Government of India Presses are:

Clerical in all Presses . 10 A.M. to 5 P.M. on Monday to Friday.

10 A.M. to 2 P.M. on Saturday.

Industrial . . . . . Delhi Press 8 A.M. to 5 P.M.

Aligarh Press 9 A.M. to 5-30 P.M.

Simla and Calcutta Presses { 9 A.M. to 6 P.M. on Monday  
to Friday.  
9 A.M. to 3 P.M. on Saturday.

I have not been able to secure information regarding other factories, but trust that the particulars given are sufficient for the purpose the Honourable Member has in view.

(b) Yes, because conditions differ in the various factories and centres.

(c) As I have said, uniformity is not enforced in the matter of working hours and I have not the material from which to make a comparison of the hours in the Presses with those in all other Government factories. Government consider that the hours in each factory must be adjusted in accordance with the needs of the factory and other local conditions.

#### HOLIDAYS IN THE GOVERNMENT OF INDIA PRESS, NEW DELHI.

1152. **\*Mr. Uppi Sahab Bahadur** (on behalf of Maulvi Sayyid Murtuza Sahab Bahadur): (a) Will Government please state if it is a fact that the holidays allowed to the employees of the Government of India Press, New Delhi, are very limited, whereas the Calcutta Press men are allowed more holidays? If so, why?

(b) Is it a fact that all the subordinate offices located permanently in Delhi enjoy all the local and Punjab gazetted holidays, even when the Government of India offices are in Delhi, whereas the employees of the Government of India Press, New Delhi, are denied the same even when the Government of India offices are in Simla? If so, why?

(c) Is it a fact that they have to work in lead and gas poisonings throughout the year? If so, are Government prepared to consider their case for the grant of more holidays?

**The Honourable Sir Frank Noyce:** (a) I do not think the holidays in either New Delhi or Calcutta can be described as very limited, but they are more numerous in the latter place. This is due to the desire to maintain uniformity with the Bengal Government Press.

(b) Subordinate offices located permanently in Delhi are allowed holidays prescribed for local offices by the Chief Commissioner, Delhi. The reply to the second part is in the negative. The concluding part does not arise.

(c) No: all possible precautions are taken to minimize the risk of lead poisoning, and so far as I am aware, there is no risk of gas poisoning. Government are not prepared to increase the number of holidays.

**COMPENSATION TO THE EMPLOYEES OF THE GOVERNMENT OF INDIA PRESSES FOR WORKING ON SUNDAYS AND GAZETTED HOLIDAYS.**

1153. **\*Mr. Uppi Saheb Bahadur** (on behalf of Maulvi Sayyid Murtuza Saheb Bahadur): (a) What was the previous practice for compensating the Press employees for their attendance on Sundays and gazetted holidays?

(b) Is it a fact that now-a-days a policy has been followed to compensate salaried industrial hands of the Government Press for attending on Sundays and gazetted holidays on the basis of a half and quarter day's pay for a whole day's labour under plea of an interpretation of an order showing that they are already paid for the day in their monthly wages? If so, is the clerical staff of the Press as well as of other Government establishments allowed compensation leave in lieu of attendance on holidays when they too are paid for the same in their monthly wages? If so, why? Are Government prepared to observe a uniform practice? If not, why not?

**The Honourable Sir Frank Noyce:** (a) The Press employees were allowed compensation leave.

(b) Compensatory holidays are given for Sundays whenever possible. Work done on Sundays for which no compensatory holiday is given or on closed holidays is treated as overtime and salaried industrial employees receive a bonus of half a day's pay or a quarter of a day's pay, as the case may be. Clerks in the Presses are not entitled to overtime payments. If on any occasion they are required to attend on a Sunday or a holiday they may be granted compensation holiday at the discretion of the Manager. I have no information as to the practice followed in other Government establishments. The conditions of service of clerks are different from those of the industrial hands and Government do not propose to follow a uniform practice.

**CASUAL LEAVE ALLOWED TO THE GOVERNMENT OF INDIA PRESS EMPLOYEES.**

1154. **\*Mr. Uppi Saheb Bahadur** (on behalf of Maulvi Sayyid Murtuza Saheb Bahadur): (a) Is it a fact that 15 days' casual leave is allowed to the Government of India Press employees and only ten days to the Delhi and Simla Press men? If so, why?

(b) Is it also a fact that a deduction is not made from casual leave for an early leave upto three hours of a clerk of the same concern out of his 6½ hours' attendance, but that in the case of salaried industrial hands early leave is allowed for an hour only out of their eight hours' attendance? If so, why is there such a differential treatment?

(c) Is it a fact that even in the case of late attendance in office beyond the prescribed limit, casual leave is reduced in the case of clerks, but in the case of industrial hands fines are imposed upon them? If so, why? Are Government prepared to observe a uniform practice?

**The Honourable Sir Frank Noyce:** (a) I presume that the first portion of the Honourable Member's question has reference to the Government of India Press, Calcutta. Persons eligible for casual leave are allowed such leave up to the maximum number of days stated in the question. The limit in the case of Simla and Delhi Presses was reduced following the practice in the Government of India Secretariat.

(b) I am not clear what the Honourable Member means by 'early leave'. In the case of salaried men, leave for short periods exceeding one hour is set off against casual leave, if admissible.

(c) The answer to the first part is in the affirmative. Conditions of employment of clerks are different from those of industrial hands and Government are not satisfied that uniformity is desirable.

**GRANT OF PENSIONARY BENEFITS TO CERTAIN EMPLOYEES OF THE GOVERNMENT OF INDIA PRESSES.**

1155. \***Mr. Uppi Saheb Bahadur** (on behalf of Maulvi Sayyid Murtuza Saheb Bahadur): (a) Will Government please state whether it is a fact that as a result of the re-organization of the Government of India Presses in 1920, Works Committees were formed by Government in these Presses to ventilate the grievances of Press employees through them?

(b) Is it a fact that a question was raised in the first meeting of the Delhi Press Works Committee about all the old extra and day-extra piece workers recruited prior to 15th July, 1920, who had been serving continuously upto that time in those capacities and whether they would be given pensionary benefits or not when they are brought on the regular establishment?

(c) Is it a fact that the said question was forwarded by the then Controller of Printing, Mr. M. J. Cogswell, for final decision to the then Munitions Board under which the Presses were at that time and the Board's decision was communicated to Presses under the Controller of Printing's U/O. I. No. 138-Pg., dated the 10th January, 1921, which runs as hereunder:

"The orders relating to pension contained in paragraph 20 of the Resolution clearly apply to all *piece workers* who were in service on the date on which the Resolution was issued and it was presumably the intention that the previous service on the "Day Extra" or "Extra" establishment of men who have subsequently been made permanent should also count for pension if such men have rendered 25 years' continuous and approved service including the period spent as "Day Extra" or "Extra". It is true that the Resolution refers only to men on a "temporary basis" and to service classified as "permanent or temporary", but the notes refer to "all employees at present employed in the Government of India Presses and the whole of the existing staff". The Controller may be informed accordingly. It seems hardly necessary to trouble the Finance Department again over the matter.

This note may therefore be taken as representing the orders on the subject and may be acted upon.

(Sd.) M. J. COGSWELL,—10-1-1921."

If so, why have Government now denied the same concession to the said people and forced the contributory provident fund on them?

(d) Is it also a fact that a few months later a decision was arrived at by Government on the petitions of Abdul Gani and Bachoo of the Delhi Press that they and all other employees who were recruited to the inferior establishment prior to 15th July, 1920 (leaving aside the question of day-extra period), when subsequently taken on the superior establishment would be given double benefit—gratuity for the inferior service and pension for the superior service? What is the reason for giving "double benefit" to the inferior servants (gratuity and pension) and only contributory provident fund for the remaining few years of their services to the superior hands? Are Government prepared to carry out their decision mentioned above which was arrived at in the Munitions Board?

**The Honourable Sir Frank Noyce:** (a) Yes.

(b) No. The Committee wished a definite order regarding the position of permanent men. The Controller of Printing, Stationery and Stamps, in submitting their views pointed out that the Government Resolution in question had referred in a particular paragraph only to men now employed on a temporary basis, and Government understood that the doubt was whether men then holding permanent posts would be allowed to count their service on the "Day-Extra" or "Extra" establishment.

(c) An order was passed in the terms quoted, but it referred to the point already mentioned by me and not to the point raised by the Honourable Member. The latter part of this question does not arise.

(d) I cannot trace any such cases a few months after the orders in question; the Honourable Member is possibly referring to two cases which arose ten years later to which the provisions of Article 398 of the Civil Service Regulations were held to apply. Double benefit is not given in respect of the same service; certain men get gratuities for their inferior service and pensions for their superior service, while certain others get gratuities for their inferior service and the benefit of Contributory Provident Fund for their superior service. As regards the concluding part of the question, the Honourable Member is referred to the reply given by me on the 1st April to Mr. S. C. Mitra's unstarred question No. 153.

**PROMOTIONS IN THE READING BRANCH OF THE GOVERNMENT OF INDIA PRESS, NEW DELHI.**

1156. **\*Mr. Uppi Sahab Bahadur** (on behalf of Maulvi Sayyid Murtuza Sahab Bahadur): (a) Is it a fact that seniority was not observed at all in the case of recent promotions in the reading branch of the Government of India Press, New Delhi, of men from Revisers to Readers' posts and from Copy-holders to Revisers', in spite of the decision arrived at in the meeting of the Works Committee of the aforesaid Press on the 12th February, 1930? If so, why?

(b) What are the qualifications (educational and not technical) of those promoted and those who have been superseded?

(c) Were the superseded men given a chance on probation at least to prove themselves worthy of the post? If not, why not?

**The Honourable Sir Frank Noyce:** (a), (b) and (c). Government have no information on any of the points referred to by the Honourable Member which relate to matters of detail lying within the competence of the Head of the Department. It is open to any employee, who considers that he has a grievance in the matter of promotion to make a representation to the proper authority in the ordinary way.

**RECRUITMENT OF PROBATIONERS FOR LINO AND MONOTYPE MACHINES.**

1157. **\*Mr. Uppi Sahab Bahadur** (on behalf of Maulvi Sayyid Murtuza Sahab Bahadur): What is the practice in the matter of recruitment of probationers for Lino and Monotype Machines? Is it from amongst the industrial hands or from the clerks? If the former, why has now a clerk been allowed to learn operating work instead of an industrial hand?

**The Honourable Sir Frank Noyce:** Recruitment is not restricted to a particular class of employees. The latter part of the question does not arise.

**OCCUPATION AND VACATION FORMS FOR THE GOVERNMENT OF INDIA PRESS QUARTERS, NEW DELHI.**

1158. **\*Mr. Uppi Saheb Bahadur** (on behalf of Maulvi Sayyid Murtuza Saheb Bahadur): Are there any occupation or vacation forms maintained by the Public Works Department for the Government of India Press Quarters in New Delhi? If not, why not?

**The Honourable Sir Frank Noyce:** The attention of the Honourable Member is invited to the reply given by me on the 1st April, 1933, to Mr. S. C. Mitra's unstarred question No. 151.

**CERTAIN DEFECTS IN THE "F" TYPE QUARTERS, NEW DELHI.**

1159. **\*Mr. Uppi Saheb Bahadur** (on behalf of Maulvi Sayyid Murtuza Saheb Bahadur): Is it a fact that in certain "F" type quarters occupied mostly by the Hindu employees, latrines and bath rooms are built together and are just in the centre of the courtyard and that there is no window at all in the first room of those quarters? If so, what arrangements do Government propose to make to redress the above grievances which were repeatedly mentioned in the petitions submitted by the occupants?

**The Honourable Sir Frank Noyce:** The answer to the first part is in the negative. The second part does not arise.

**RETENTION OF THE POST OF ASSISTANT DIRECTOR, MISCELLANEOUS BRANCH, IN THE INDIAN STORES DEPARTMENT.**

1160. **\*Mr. Uppi Saheb Bahadur:** (a) Is it a fact that there were two posts of Assistant Director of Purchase—one for the Engineering Branch which deals with the supply of plant and machinery and electrical stores and the other for Hardware or Miscellaneous Branch which deals with the supply of oils, paints and beams, etc?

(b) Is it a fact that the post of the Assistant Director, Engineering Branch, has been abolished and the work of that post is being done by an Assistant Controller of Purchase, on a lower rate of pay?

(c) Is it also a fact that the other post of Assistant Director for the Miscellaneous Branch has not been abolished?

(d) If the reply to part (c) be in the affirmative, will Government please state the reasons for retaining the other post for Miscellaneous Branch, and for promoting the existing incumbent who is an Assistant Controller of Purchase to the post?

**The Honourable Sir Frank Noyce:** (a) and (c). Yes.

(b) The attention of the Honourable Member is invited to the reply given to Maulvi Sayyid Murtuza Saheb Bahadur's starred question No. 1052 on the 9th November, 1932.

(d) There has been no decline in the work of the Hardware Branch justifying the abolition of the post of Assistant Director of Purchase (Hardware). The present incumbent of the post was promoted to it as he was the seniormost officer in his class.

**CREATION OF THE POST OF THE DEPUTY DIRECTOR, ADMINISTRATION AND INTELLIGENCE, INDIAN STORES DEPARTMENT.**

1161. **\*Mr. Uppi Sahab Bahadur:** (a) Is it a fact that the post of the Deputy Director, Administration and Intelligence, Indian Stores Department, was created on the retirement of Mr. R. R. Reaks?

(b) Is it a fact that the present incumbent of the post was appointed as soon as he was relieved of his appointment in the Industries and Labour Department which he held temporarily?

(c) Is it a fact that he had no previous experience or technical knowledge qualifying him for the post?

(d) Is it a fact that the Retrenchment Committee had recommended the abolition of the post on the retirement of the present incumbent?

(e) If the reply to part (d) be in the affirmative, will Government please state what action do they propose to take on the recommendation?

**The Honourable Sir Frank Noyce:** (a) Mr. Reaks retired from the service of Government on the 10th May, 1930. The post of Deputy Director, Administration and Intelligence, was created in June, 1930, as a result of certain re-organisation in the Direction and Intelligence Branches of the Indian Stores Department due to the introduction of the Rupee Tender System and of the revised Stores Purchase Rules.

(b) Yes, but while officiating as Under Secretary in the Department of Industries and Labour, Rai Bahadur J. P. Ganguli held a lien on a permanent post in that Department.

(c) Rai Bahadur J. P. Ganguli was considered to be entirely suitable for the post of Deputy Director, Administration and Intelligence, as he possessed the requisite knowledge and experience required of the incumbent of that post.

(d) and (e). Yes. The recommendation referred to by the Honourable Member is under consideration.

**SMALL-POX IN DELHI.**

1162. **\*Mr. Uppi Sahab Bahadur** (on behalf of Maulvi Sayyid Murtuza Sahab Bahadur): (a) Is it a fact that for the last many years there has been no such havoc in Delhi from small-pox as was this year?

(b) What is the number of deaths from the fell disease?

(c) Is it a fact that it continued for months together?

(d) What is the average death-rate from small-pox and other diseases?

(e) What is the main reason for the outbreak of small-pox in such a virulent form this time?

(f) Is it a fact that until sometime ago notices calling upon parents to get their children vaccinated were being distributed by *chaprasis* specially appointed for the purpose?



**ELEMENTARY AND SECONDARY SCHOOLS MAINTAINED BY THE DELHI MUNICIPALITY.**

1163. **\*Mr. Uppi Saheb Bahadur** (on behalf of Maulvi Sayyid Murtuza Saheb Bahadur): (a) How many elementary and secondary schools are being maintained by the Delhi Municipality?

(b) How many of them are for boys and how many for girls?

(c) What percentage of the municipal revenue is set apart every year for education?

(d) What contribution do Government pay to the committee in the shape of grant-in-aid?

**Mr. G. S. Bajpai:** (a) The total number of schools maintained directly by the Delhi Municipal Committee is 71, of these four are Upper Middle, two Lower Middle and the rest Primary schools.

(b) 47 for boys and 24 for girls.

(c) About 13 per cent.

(d) The Government grant during 1932-33 amounted to Rs. 1,15,000.

**CUT IN THE PAY OF TEACHERS IN THE MUNICIPAL SERVICE IN DELHI.**

1164. **\*Mr. Uppi Saheb Bahadur** (on behalf of Maulvi Sayyid Murtuza Saheb Bahadur): (a) Is it fact that teachers in the municipal service are having a cut of 10 per cent. even prior to those that are in Government service? If so, since when?

(b) Is it a fact that their poor promotion of rupee one or two a year has been withheld since 1928? If so, are Government prepared to call upon the Committee to give them their grades with retrospective effect?

(c) Do Government propose to see that the cuts of the teachers are restored fully as has been done in Madras?

**Mr. G. S. Bajpai:** Government understand that increments of all municipal employees, including teachers, were stopped as an emergency measure with effect from the 7th September, 1931, and that a 10 per cent. cut in the pay of municipal servants drawing more than Rs. 40 per mensem is now under consideration. The Honourable Member will appreciate that action such as that proposed by him would be an unjustifiable interference with the internal administration of a local body.

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**STATEMENTS LAID ON THE TABLE.**

**The Honourable Sir George Schuster** (Finance Member): Sir, I lay on the table:

(i) the information promised in reply to starred questions Nos. 650 to 655 asked by Shaikh Fazal Haq Piracha on the 6th March, 1933; and

(ii) the information promised in reply to unstarred question No. 61 asked by Mr. M. Maswood Ahmad on the 8th March, 1933.



### EMPLOYMENT OF MUSLIMS IN THE SUBORDINATE ACCOUNTS SERVICE AND IN THE AUDITOR GENERAL'S OFFICE.

\*650. (a) Muslims 24 (including 1 Apprentice).

Hindus 398

on 31st December, 1932.

(b) and (e). Attention is invited to the final reply (which is in the Library of the House) given to part (c) of starred question No. 885, asked by Shaikh Sadiq Hasan on the 9th March, 1931.

(c) Yes.

\*650. (d) and \*653. Attention is invited to the statements showing the communal strength of the clerical staff of the various offices of the Central Government which are prepared annually and are in the Library.

\*650. (f) 275, of whom 27 were Muslims.

(g)		Hindu s.	Muslims.
1930	. . . . .	112	9
1931	. . . . .	52	2
1932	. . . . .	17	Nil.

### PERCENTAGE OF SUCCESSFUL CANDIDATES IN THE SUBORDINATE ACCOUNTS SERVICE EXAMINATION.

*651. (a) and (b) 1925	. . . . .	22 per cent.
1926	. . . . .	28 per cent.
1927	. . . . .	20·5 per cent.
1928	. . . . .	30 per cent.
1929	. . . . .	42 per cent.
1930	. . . . .	22 per cent.
1931	. . . . .	14 per cent.
1932	. . . . .	6 per cent.

One reason for the low percentage in 1932 is probably that the qualifying standards in the examination are being more strictly observed than was at one time the case and in particular the practice of giving grace marks has been very considerably modified.

### HOLDING OF THE SUBORDINATE SERVICE EXAMINATION BY THE PUBLIC SERVICE COMMISSION.

\*652. The reply to the first part is in the affirmative, so far as the Government of India Secretariat and most attached offices at headquarters are concerned; and to the second part in the negative.

### STRENGTH OF THE SUBORDINATE ACCOUNTS SERVICE IN THE AUDITOR GENERAL'S OFFICE.

\*654. (a) 24.

(b) None. There is, however, one Muslim apprentice.

### REPRESENTATION OF MUSLIMS IN THE AUDITOR GENERAL'S OFFICE.

\*655. The orders of the Government of India regarding the redress of communal inequalities are being, and will be, followed, but I may add that the question of modifying these orders is under consideration.

### RECRUITMENT TO THE SUBORDINATE ACCOUNTS SERVICE.

61. (a) The rules provide that occasionally persons with superior intellectual qualifications may be recruited as probationers or apprentices for eventual direct appointment to the Subordinate Accounts Service.

(b) Yes.

(c) The required information is given below :

Names of offices.	Names of candidates.	Muslim or Non-Muslim.	No. of S. A. S. Examinations at which he appeared.	Whether confirmed or not confirmed.	Remarks.
Accountant General, Madras.	Mr. K. R. Padmanabha Ayyangar.	Non-Muslim	Nil	Not confirmed.	He was relieved on 5th April 1929 on appointment to the Indian Audit and Accounts Service.
Do.	" K. S. Krishnaswami	Do.	One	Do.	He resigned his appointment on 19th March 1930 on being selected for appointment in the Military Accounts Department.
Do.	" R. Ramaswami	Do.	One	Confirmed.	
Accountant General, Bombay.	" S. Ramchandran	Do.	One	Do.	
Do.	" S. Sunder Raman	Do.	Three	Not confirmed.	Taken in the clerical grade.
Do.	" M. G. Desai	Do.	Two	Confirmed.	
Accountant General, Bengal.	" Sorsaj Noth Ghatak	Do.	One	Not confirmed.	Since passed the Indian Audit and Accounts Service Examination. Owing to embargo on filling posts substantively.
Do.	" T. V. Subrahmanian	Do.	One	Do.	Relinquished duty in 1926.
Accountant General, United Provinces.	" Devendra Singh Srivastava.	Do.	Nil	Do.	
Do.	" M. N. Bhatt	Do.	One	Confirmed.	
Accountant General, Punjab.	" Tara Chand Saggar	Do.	Two	Do.	
Do.	" P. D. Seth	Do.	One	Do.	
Do.	" Mohd. Ali	Muslim	Two	Not confirmed.	
Do.	" Imtiaz Ali	Do.	One	Do.	
Do.	" Mohd. Abdulla	Do.	Nil	Do.	Reverted to the clerical at his own request.
Do.	" Chanan Lal Diwan	Non-Muslim	Two	Confirmed.	
Do.	" Chaman Lal Khanna	Do.	Three	Not confirmed.	Appointed as a clerk.
Do.	" Satdar Jang	Muslim	Three	Do.	Will be taken in the Clerical grade.
Accountant General, Central Revenues.	" K. N. Kaul	Non-Muslim	One	Confirmed.	
Do.	" B. R. Bazar	Do.	Three	Not confirmed.	He was absorbed in the clerical grade.

Names of offices.	Names of the candidates.	Muslim or Non-Muslim.	No. of S. A. S. examinations at which he appeared.	Whether confirmed or not confirmed.	Remarks.
Accountant General, Central Provinces.	Mr. M. V. Rangachari .	Non-Muslim.	One .	Confirmed.	
Do.	" P. N. Krishnaswami .	Do.	One .	Do.	
Accountant General, Bihar and Orissa.	" S. A. Sharma .	Do.	One .	Do.	
Do.	Mohd. Abu Mozaffar .	Muslim .	One .	Do.	
Accountant General, Burma.	" A. K. Bose .	Non-Muslim	One .	Do.	
Do.	" A. C. Ghosh .	Do.	Two .	Not confirmed .	Reverted as a clerk.
Auditor General.	" Abdul Qayyum .	Muslim .	Two .	Do.	Granted an extra chance.
Comptroller, Assam	" Harendra Kumar De Chaudhuri.	Non-Muslim	One .	Confirmed.	
Comptroller, North-West Frontier Provinces.	" Syed Abdul Mughni .	Muslim .	One .	Holding a temporary post of S. A. S. sub-stantively.	
Do.	" Hidayat Ullah Khan .	Do.	Nil .	Not confirmed .	Left the Department.
Do.	" Mohd. Yunus .	Do.	One .	Do.	Do.
Do.	" Abdul Majid .	Do.	Nil .	Not confirmed .	Still under training.
Do.	Mohd. Sarfaraz Khan .	Do.	Nil .	Do.	Do.
Audit Officer, I. S. D.	" .	..	..	..	..
Audit Officer, L. B. & C.G.	" .	..	..	..	..
Director of Army Audit	Mr. S. N. Dar .	Non-Muslim	One .	Confirmed.	
Do.	" J. C. Das Gupta .	Do.	One .	Do.	
Do.	" Diwan Chand .	Do.	One .	Do.	
Do.	" E. A. S. Aiyer .	Do.	One .	Do.	
Accountant General, Posts and Telegraphs.	" S. Sivaraman .	Do.	Two .	Not confirmed .	Resigned his appointment.

Do.	"	Abdul Quadir	Muslim	One	Confirmed	Left the Department having passed the I. A. & A. S. Examination. Granted an extra chance.
Do.	"	Hazara Singh Karir	Non-Muslim	Three	Not confirmed.	
Director of Audit.	"	R. Srinivasamurthi	Do.	One	Confirmed.	
Do.	"	P. C. Mukherjee	Do.	One	Not confirmed (Holding a temporary post).	
Do.	"	M. R. Swaminathan	Do.	One	Confirmed.	
Do.	"	Onkar Deyal	Do.	One	Not confirmed (Holding a provisionally substantive post).	
Do.	"	Hafeez Ahmad	Muslim	One	Not confirmed (Holding a temporary post).	
Do.	"	K. J. Chandwani	Non-Muslim	One	Do.	Since died.
Do.	"	K. Hafiz Ullah	Muslim	One	Do.	
Do.	"	S. Somamudaram	Non-Muslim	One	Do.	
Do.	"	R. O. Ewing	Do.	Two	Do.	
Do.	"	T. A. Iyer	Do.	One	Do.	
Do.	"	Arjan Singh Giani	Do.	One	Do.	
Do.	"	A. A. Venkaraman	Do.	One	Do.	
Do.	"	V. Sanyanamurthi	Do.	One	Do.	
Do.	"	Jageshwar Das Jain	Do.	Two	Do.	
Do.	"	A. Padmanabham	Do.	One	Do.	
Do.	"	J. N. Kewalramani	Do.	One	Not confirmed.	
Do.	"	S. G. Subramanian	Do.	One	Do.	
Do.	"	E. R. Allen Dent	Do.	One	Do.	
Do.	"	S. K. Banerjee	Do.	Two	Do.	
Do.	"	Mohd. Ibrahim	Muslim	Two	Do.	
Do.	"	Shanti Lal	Non-Muslim	Three	Do.	
Do.	"	S. Sankaran	Do.	One	Do.	
Do.	"	Dev Raj Sawhney	Do.	One	Do.	
Do.	"	S. Venkitesware	Do.	One	Do.	
Do.	"	H. H. Neilson	Do.	Three	Do.	
Do.	"	D. C. Jain	Do.	Three	Do.	
Do.	"	G. Swaminathan	Do.	One	Do.	
Do.	"	R. Ranga Chari	Do.	Three	Do.	
Do.	"	B. S. Gupta	Do.	Three	Do.	

Holding temporary posts.

**The Honourable Sir Joseph Bhore** (Member for Commerce and Railways): Sir, I lay on the table:

- (i) the information promised in reply to starred question No. 480 asked by Mr. M. Maswood Ahmad on the 25th February, 1933; and
- (ii) the information promised in reply to starred question No. 986 asked by Mr. Nabakumar Sing Dudhoria on the 28th March, 1933.

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COUNTRIES WITH GOVERNMENT OF INDIA REPRESENTATIVES, HIGH COMMISSIONERS OR TRADE COMMISSIONERS.

\*480. The sums provided in the budget estimates for 1933-34 on account of the cost of all the representatives' offices in question is approximately Rs. 79,11,000, of which Rs. 61,60,000 is in respect of the office of the High Commissioner for India in London, including the Indian Trade Commissioner, London.

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TRANSFER OF THE CONTINUOUS DISCHARGE CERTIFICATE DEPARTMENT OF THE SHIPPING OFFICE FROM KIDDERPORE TO CALCUTTA.

\*986. (a) Yes.

(b) Additional accommodation on the ground floor of the building has been placed at the disposal of the Shipping Office but the accommodation added is insufficient to house the Continuous Discharge Certificate Department. The additional accommodation was urgently required to relieve the congestion in the Head Office where the then available accommodation was far short of requirements a matter which caused serious inconvenience to the office staff, Masters and Agents of vessels and crews.

(c) (i) Approximately 5,618 sq. ft. excluding the compound, shelter shed and lavatories, etc.

(ii) 1,536 sq. ft. approximately.

(iii) 3,000 sq. ft. approximately.

(d) The question of providing a new building large enough to accommodate both the Continuous Discharge Certificate Department and the Main Shipping Office is under consideration.

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**The Honourable Sir Frank Noyce** (Member for Industries and Labour): Sir, I lay on the table the information promised in reply to starred question No. 816, asked by Seth Haji Abdoola Haroon on the 21st March, 1933.

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RECRUITMENT OF SIKHS IN THE RAILWAY MAIL SERVICE, "L" DIVISION.

\*816. (a) No.

(b) Does not arise in view of the reply to part (a).

(c) If by "I. R. O." the Honourable Member means 'Sub Record Office', the reply to the first part is in the negative. The second part does not arise.

(d) No. The Sikh Inspector, Railway Mail Service, Amritsar, who has since been transferred, held that post for less than 5 years.

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**Mr. G. S. Bajpai** (Secretary, Department of Education, Health and Lands): Sir, I lay on the table the information promised in reply to parts (a) and (b) of starred question No. 954 asked by Mr. M. Maswood Ahmad on the 27th March, 1933.

## SAILING OF PILGRIM SHIPS DIRECT TO JEDDAH FROM BOMBAY OR KARACHI.

\*954. (a) (i) *From Bombay to Jeddah direct—*

S.S. "Rizwani" on the 14th February, 1933.

(ii) *From Bombay to Jeddah via Karachi—*

(1) S.S. "Rizwani" left Bombay on the 29th December, 1932, and Karachi on the 2nd January, 1933.

(2) S.S. "Akbar" left Bombay on the 19th January and Karachi on the 21st January, 1933.

(3) S.S. "Khosrou" left Bombay on the 21st February and Karachi on the 25th February, 1933.

(4) S.S. "Akbar" left Bombay on the 2nd March and Karachi on the 6th March, 1933.

(5) S.S. "Rahmani" left Bombay on the 14th March and Karachi on the 18th March, 1933.

(6) S.S. "Rizwani" left Bombay on the 18th March and Karachi on the 21st March, 1933.

(iii) *From Karachi to Jeddah direct—*

S.S. "Rahmani" on the 14th February, 1933.

(iv) *From Calcutta to Jeddah—*

One steamer on the 2nd March, 1933.

(b) No.

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Mr. P. B. Rau (Financial Commissioner, Railways): Sir, I lay on the table:

(i) the information promised in reply to parts (d) and (e) of starred question No. 13, asked by Mr. Bhuput Singh on the 1st February, 1933;

(ii) the information promised in reply to part (b) of starred question No. 550 asked by Mr. N. M. Joshi on the 27th February, 1933;

(iii) the information promised in reply to starred question No. 964 asked by Mr. B. N. Misra on the 28th March, 1933; and

(iv) the information promised in reply to starred question No. 1000 asked by Mr. N. M. Joshi on the 28th March, 1933.

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CONSTRUCTION OF A ROAD FROM AZIMGANJ CITY TO AZIMGANJ JUNCTION BY THE EAST INDIAN RAILWAY.

\*13. (d) and (e). The Agent, East Indian Railway reports that there is a road, but this is unsuitable for vehicular traffic as it is narrow and full of sharp turns. The new road which it is proposed to construct in response to a representation from the residents of Azimganj and Jiaganj, will be a more direct road in that it will be some 400 feet shorter than the existing one, and will be in every way more suitable for modern vehicular traffic.

**SUBORDINATE STAFF EMPLOYED IN THE PERMANENT ESTABLISHMENT OF THE  
ACCOUNTS OFFICES OF STATE RAILWAYS.**

\*550. (b)

Description.	Office of the C. A. O., Burma Rys.	Office of the C. A. O., E. B. Ry.	Office of the C. A. O., E. I. Ry.	Office of the C. A. O., G. I. P. Ry.†	Office of the C. A. O., N. W. Ry.	Remarks.
<b>I.—Blocked at Rs. 120.</b>						
Number of men .	‡	1	2	15	7	
Length of service (approximately in years).	..	12	18 to 20	17 to 29	10 to 30	
Period of Block (approximately in years).	..	2	4 to 7	1 to 6	1 to 2	
<b>II.—Blocked at Rs. 90.</b>						
Number of men .	‡	..	16	81	17	
Length of service (approximately in years.)	..	..	7 to 28	11 to 25	10 to 25	
Period of Block (approximately in years).	..	..	1 to 5	1 to 3	1 to 8	
<b>III.—Blocked at Rs. 80.</b>						
Number of men .	44	18	36	99	121	
Length of service (approximately in years).	10 to 20	11 to 28	4 to 26	6 to 22	10 to 30	
Period of Block (approximately in years).	1 to 7	1 to 2	1 to 9	1 to 5	1 to 4	

†These figures exclude the number of employees who have remained on the maximum on account of their unfitness for further promotion.

‡No scales having a maximum pay of Rs. 120 or Rs. 90 are prevalent on the Burma Railways.

**DENIAL OF HILL ALLOWANCE TO THE RAILWAY STAFF STATIONED AT  
DEHRA DUN.**

\*964. The reply to the first part of the question is in the negative. The latter part of the question does not arise.

**UNIONS OF RAILWAY EMPLOYEES ON THE EAST INDIAN RAILWAY.**

\*1000. (a) The Agent, East Indian Railway reports that the only union so far registered under the Indian Trade Unions Act, 1926, on the East Indian Railway, is the one styled the East Indian Railwaymen's Union.

(b) The Agent has informed the Chairman of the East Indian Railwaymen's Union that he would be prepared to accept and give his attention to communications addressed to him by the President of the Union.

(c) Does not arise.

**Mr. P. R. Rau** (Financial Commissioner, Railways): Sir, I lay on the table a statement giving the information at present available as to the net earnings of certain newly constructed railway lines, during the financial year 1931-32, and a comparison of the return given by these earnings on the capital outlay with the return anticipated in the original estimates.

# Net earnings of certain newly constructed Railway lines.

Statement showing net earnings during the financial year 1931-32 of new lines opened after 1st October 1927 throughout for traffic for a full year.

Serial No.	Name of project.	Working railway.	Gauge.	Mileage.	Date of opening.	Net income creditable to the project for 1931-32.	Percentage return of income (column 7 on capital outlay.	Estimated percentage return of income on Capital outlay after opening as estimated originally.
1	2	3	4	5	6	7	8	9
1	Chittagong-Nazirhat	A. B.	3' 3 1/2"	22.97	17-3-30	Rs. -5,854	-0.27	8.50
2	Feni-Belonia	A. B.	3' 3 1/2"	16.88	1-12-29	-27,134	-1.91	5.80
3	Furkating-Badulipara Jorhat	A. B.	3' 3 1/2"	42.28	1-8-28	69,154	2.01	7.00
4	Karimganj-Lungai Valley	A. B.	3' 3 1/2"	39.45	1-1-29	-54,117	-1.65	5.50
5	Netrakona-Mohanganj Extension	A. B.	3' 3 1/2"	17.55	1-4-29	-19,543	-0.94	9.80
6	Shaistaganj-Habiganj-Balla	A. B.	3' 3 1/2"	25.29	1-12-29	-22,734	-1.05	6.47
7	Senchoa-Moirabari	A. B.	3' 3 1/2"	30.25	20-4-30	-99,374	-4.48	13.0
8	Sibsagar-Khowang	A. B.	3' 3 1/2"	38.79	10-11-27	85,047	2.44	7.00
9	Mashrak Thawe Extension	B. & N. W.	3' 3 1/2"	39.32	12-1-31	39,066	1.71*	6.00
10	Boriavi Vadatal	B., B. & C. I.	5' 6"	3.71	18-4-29	-8,208	-3.65*	5.00
11	Jambusar-Kavi	B., B. & C. I.	2' 6"	17.87	1-8-29	3,898	0.49*	8.00
12	Sammi-Dahej	B., B. & C. I.	2' 6"	24.72	1-3-30	-14,166	-1.41*	8.90
13	Vesad-Kathana	B., B. & C. I.	5' 6"	26.61	1-9-30	-3,072	-0.14*	8.00
14	Heho-Shwenyaung	Burma	3' 3 1/2"	11.25	2-5-28	-13,003	-0.46	6.00
15	Kayan-Thongwa	Burma	3' 3 1/2"	10.80	15-12-28	6,096	0.40	10.75
16	Mingyan-Paleik	Burma	3' 3 1/2"	68.86	13-1-30	-1,49,989	-2.10	5.50
17	Nyaungle bin-Madauk	Burma	3' 3 1/2"	11.06	15-8-29	1,15,963	8.65	3.37
18	Taungdwingyi-Kyaunkpadaung	Burma	3' 3 1/2"	71.82	17-7-30	-1,91,647	-1.75	6.00
19	Abdulpur-Nawabganj	E. B.	5' 6"	56.6	11-2-30	-1,91,122	-1.88	6.20
20	Baruipur-Lakshmikantapur	E. B.	5' 6"	23.26	15-12-28	-74,311	-1.51	7.00
21	Dinaipur-Ruhees	E. B.	3' 3 1/2"	47.80	8-5-28	-56,437	-1.34	6.50

\*Excluding earnings of the existing lines from new traffic interchanged with the new railway.



Serial No.	Name of project.	Working railway.	Gauge.	Mileage.	Date of opening.	Net income creditable to the project for 1931-32.	Percentage return of income (column 7 on Capital outlay).	Estimated percentage return of income on Capital outlay some years after opening as estimated originally.
1	2	3	4	5	6	7	8	9
22	Purnee-Murliganj (with branch from Baunankhi to Behariganj).	E. B.	3' 3 $\frac{1}{2}$ "	59.13	1-10-29	—98,011	—2.65	6.50
23	Chandpur Bijnor Muazzampur Narain.	E. I.	5' 6"	37.00	5-1-30	1,42,697	4.82*	6.10
24	Unao Madhoganj	E. I.	5' 6"	48.00	21-12-30	80,923	2.21*	6.30
25	Agra-Bah	G. I. P.	5' 6"	43.00	10-4-29	—47,602	—1.54	6.30
26	Cocanada-Kotipalli	M. & S. M.	5' 6"	27.08	1-11-29	—69,182	—1.65†	6.00
27	Guntur-Macherla	M. & S. M.	3' 3 $\frac{1}{2}$ "	79.83	15-1-30	1,60,987	3.48†	5.25
28	Gudivada-Bhimavaram	M. & S. M.	3' 3 $\frac{1}{2}$ "	40.60	17-9-28	89,757	2.21†	6.61
29	Nidadavolu-Narasapur	M. & S. M.	5' 6"	47.16	3-2-29	2,73,664	3.98†	†
30	Kannivihalli-Swamihalli Extension.	M. & S. M.	3' 3 $\frac{1}{2}$ "	11.74	15-3-28	2,95,248	50.77†	5.50
31	Amritsar-Narawal (Verka-Narawal)	N. W.	5' 6"	39.11	6-5-29	1,83,371	2.39	6.00
32	Jassar-Shaktargarh-Chak Amru	N. W.	5' 6"	25.97	21-12-27	—76,169	—3.77	5.48
33	Lyallpur-Jaranwala	N. W.	5' 6"	20.75	3-12-27	—1,19,496	—6.11	6.33
34	Rohak-Gohana-Panipat	N. W.	5' 6"	44.01	15-5-28	—2,25,373	—7.27	4.81§
35	Shahdara-Narawal	N. W.	5' 6"	48.33	21-12-26	(a) 83,581	2.22	5.50
36	Kangra Valley	N. W.	2' 6"	103.00	1-4-29	(a) —2,60,503	—0.71	¶
37	Cuddalore Vriddhaachalam	S. I.	3' 3 $\frac{1}{2}$ "	35.59	21-6-28	(a) 44,283	1.64(b)	9.44
38	Dindigul-Pollachi	S. I.	3' 3 $\frac{1}{2}$ "	75.10	19-11-28	4,41,325	5.57(b)	8.73
39	Madura-Bodmayakkanur	S. I.	3' 3 $\frac{1}{2}$ "	55.94	20-11-28	2,21,553	4.14(b)	4.75(c)
40	Salem-Mettur Dam	S. I.	5' 6"	23.20	15-4-29	(a) 1,71,023	13.30(b)	4.00(d)
41	Shoranur-Nilambur	S. I.	5' 6"	41.35	26-10-27	—92,204	—1.12(b)	6.50
42	Villupuram-Trichinopoly	S. I.	3' 3 $\frac{1}{2}$ "	109.00	1-2-29	11,81,906	5.85(b)	5.37
43	Trichinopoly-Manamadura Chord	S. I.	3' 3 $\frac{1}{2}$ "	94.22	1-7-30	5,45,669	4.83(b)	

\*Excluding earnings for clearing house outward and inward and non-clearing house outward in case of passenger traffic and clearing house outward and inward in case of goods traffic.

†Calculated on capital expenditure excluding interest during construction.

‡The line was sanctioned for construction on the assurance that a minimum output of 35,000 tons of manganese ore annually by the Sandur Mining Company would be enough to guarantee the railway against loss.

§Loss to the extent of Rs. 20,000 guaranteed by Local Government so as to obtain a return of 5·5 per cent. on Capital outlay.

||Includes Rs. 4,00,000 guaranteed by the Punjab Government against loss.

¶The line was considered unremunerative but the District Board of South Arcot, who were interested in it, have expressed their willingness to guarantee the Government of India against loss, if any, arising out of the construction and working of the line.

(a) The figures do not include payments of amounts on account of guarantee payable by Local Government or District Board.

(b) Excluding the earnings of the existing lines from new traffic interchanged with the new railway.

(c) The estimated percentage return took into account a maximum payment of Rs. 41,000 to be made good by the Madras Government against loss.

(d) The estimated percentage return took into account a maximum payment of Rs. 1,39,000 guaranteed by the Madras Government against loss.

THE PROVINCIAL CRIMINAL LAW SUPPLEMENTING BILL—  
*contd.*

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The House will now resume consideration of clause 5 of the Bill to supplement the provisions of the Bengal Public Security Act, 1932, the Bihar and Orissa Public Safety Act, 1933, the Bombay Special (Emergency) Powers Act, 1932, the United Provinces Special Powers Act, 1932, and the Punjab Criminal Law (Amendment) Act, 1932, for certain purposes.

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, I support the arguments advanced by my friend, Sardar Sant Singh, for the deletion of clause 5, and the only point I should like to make is this. The Honourable the Law Member in one of his speeches said that he himself considered this clause to be superfluous. I think he will explain the position now, because I think any direction of the nature of the *habeas corpus* only arises when the arrests are alleged to have been made illegally, and in that case the provisions of similar sections as provided in the earlier clauses of this Bill will not also preclude a man from going before a Court of law. If I understood the Law Member aright, I think he himself admitted that this clause was superfluous, and that is why I oppose this clause.

**The Honourable Sir Brojendra Mitter** (Law Member): Sir, I am sorry if I conveyed any wrong impression to my friend, Mr. S. C. Mitra. What I intended to say was this, that for all practical purposes a provision like that would be superfluous, and by way of illustration I took a hypothetical case where an application was made to a High Court and what sort of inquiry the High Court would make. Unless there is some illegality or impropriety, the High Court is not likely to entertain applications; and from that I drew the inference that for all practical purposes the clause would be superfluous, but for greater caution it was necessary to have it.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is that clause 5 stand part of the Bill.

The motion was adopted.

Clause 5 was added to the Bill.

**Mr. D. G. Mitchell** (Secretary, Legislative Department): Sir, in compliance with your ruling on Tuesday last, I beg to move:

“That after clause 5 of the Bill, the following clause be added:

‘6. Nothing contained in this Act shall affect the powers of a High Court under section 107 of the Government of India Act.’”

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

“That after clause 5 of the Bill, the following clause be added:

‘6. Nothing contained in this Act shall affect the powers of a High Court under section 107 of the Government of India Act.’”

The motion was adopted.

Clause 1, the Title and the Preamble were added to the Bill.

**The Honourable Sir Harry Haig** (Home Member): Sir, I move that the Bill, as amended, be passed.

The general considerations on which our proposals rest have already been fully stated to the House and I do not think it is necessary to repeat them.

**Pandit Satyendra Nath Sen** (Presidency Division: Non-Muhammadan Rural): I rise to oppose this Bill at this third reading. In newspapers we often read reports of cases of what we call Knavery and some of us have occasions to witness the trial of those cases in the law Courts. It is a common practice with the culprits in those cases to put some sweets into the hands of children who, being attracted by the sweets, allow themselves to be robbed of their valuable jewellery without any serious objection. Similar has been the affair in the present case so far as Bengal is concerned. The Bill has provided for appeals in some cases, and being attracted by this right of appeal, some of my Honourable friends have lent their support to this Bill. I do not question their sincerity, but I question their foresight. I would ask them to take an account of profit and loss in this transaction. What is the gain and what are the losses? The only gain is that the Bill provides for some appeals, and even this redeeming feature is not present in the case of other provinces. What are the losses? Loss No. 1 is that it takes away the general supervision of the higher Courts. Loss No. 2 is the indemnity in advance for those police officers who may be doing some offensive act in good faith, but it is very doubtful whether the police act in good faith at all, and if they are protected by law in this way, they will be going on doing things not in bad faith, but in the worst faith. Loss No. 3 is the deprivation of the *habeas corpus* which is one of the valued rights of a citizen. I for myself am not prepared to purchase this appeal which has been provided for in this Bill at such a heavy price, and even those appeals are in most cases unavailing and expensive. This Bill has got other defects also. First of all, it is open to the charge of bad drafting. Clause 3 includes the United Provinces, but it excludes the Punjab, and then, so far as section 491 is concerned, it speaks of the Punjab only. Why, I do not know.

Now, it is very good of Government that they have proposed and passed an amendment keeping section 107 of the Government of India Act intact, but they have kept the question of section 491 as vague as before. It may be argued and perhaps it has been argued by somebody that section 491 has got little scope in these cases, because people will be always detained under some law, and that section only applies to cases when people are detained illegally. But, Sir, that section deals not only with people who are detained illegally, but also those who are detained improperly, and when the man is detained improperly, the High Courts might come forward and intervene in those cases. I am not a lawyer, but my conception of law is that it must be always definite, precise and accurate. The present Bill is just the opposite. The Government's position is extremely weak as is evidenced by the fact that they have made so many patch works and still they have not been able to rectify the defects. I do not deny that there is a country wide discontent which has given rise to a country wide lawlessness, but that problem should be met not with this lawless law, but with a real solution of the problem, that is, the question should be met with sympathy and wise policy. The very system of administration is at fault. The issue

[Pandit Satyendra Nath Sen.]

of a White Paper or a Black Paper will not meet the situation. It is the administration of the system which counts. If the administration is not improved upon, there is no real remedy. I do not care whether the Government is federal or unitary, but what is wanted is that we should carry on the administration with sympathy. The original Local Acts are highly objectionable and I think we should not allow ourselves to be associated with those objectionable laws by way of confirmation, or ratification, or assimilation, or supplementation, or whatever it may be. Sir, I oppose the Bill.

**Mr. S. C. Mitra:** I oppose the passing of this Bill and I contend that Government has not succeeded in making any case before this House to show that the ordinary criminal procedure of the land has failed to give satisfaction either to the Government or to the people. The ordinary procedure has lasted now for more than 70 years and has been found quite good for all practical purposes, and Government must show that there has arisen a special emergency now to justify their attempt to drastically alter the ordinary procedure. One ground that has been put forward is that speedy trial may be achieved by this procedure. But, in this Bill, there is nothing about "trial": it is only about appeals. The Local Governments have enacted laws for speedy trial by special Courts. Once a man is convicted, the main purpose of a speedy trial is achieved; but there is no reason why in cases of appeal any undue haste should be attempted by the Government so as to curtail the rights of people under the ordinary laws of the land. What is now attempted is that the accused should forgo trial by a Sessions Judge with the help of jurors or assessors where the punishment inflicted is a sentence up to four years or more. Even the ordinary criminal gets a chance, when it is a case of serious offence, to be tried by a Court of Session, with the help of jurors in advanced provinces and in all cases with the assistance of assessors. Sir, I maintain that if anybody requires protection, it is the political prisoner. If there may be said to be any prejudice on the part of the trial Courts which should be protected against, I think it is in political cases and I do not see any reason why political prisoners sentenced to imprisonment for four years or more should be denied the privilege of being tried in a Court of Session with the help of assessors or jurors.

We, Sir, in this House always maintain that the real strength of the British Government is not its army or its Ordinances, but the confidence of the people in the impartial justice administered by British Courts. My Honourable friend, Mr. Gaya Prasad Singh, asks whether such confidence is still left. I maintain, it is still there. Now, in this connection, I certainly oppose the practice that now obtains of giving administrative and executive posts to retired Judges of High Courts. I remember that public bodies including the Congress, when it was not an unlawful or unconstitutional body in olden times, always fought against the Judges of High Courts getting any appointment under the Crown after they have completed their term, but unfortunately—I do not mean any reflection on individuals—we find that Judges of High Courts are now getting administrative posts. Only lately it was announced that Sir Bepin Bihari Ghosh, an ex-Judge of the Calcutta High Court, was coming here to act as Law Member. I maintain, that for the impartiality of the judicature, it is necessary that there should not be any temptation for Judges getting preferments at the

hands of Government subsequently. Their case should be treated exactly like the post of the Auditor General and they should not be enabled to hold any lucrative appointment under the Crown after their term of service. And it should be so not only in this sphere, but I hold that in the case of all offices where a strict impartiality should be maintained, the people should not have even a breath of suspicion about such impartiality. For instance, the position of the President of the Legislative Assembly should, I hold, be of the same category. However, that is by the way. I say that the people of India have still the highest regard for and confidence in the British system of justice, and the Government are undermining its very foundation by showing their non-confidence in the Courts, by encouraging every time such non-confidence by this kind of piecemeal legislation and by their inroads on the rights and powers of the judiciary. On more than one occasion we have discussed—I do not like to develop that point now—that in an ideal constitution, the three functions of the Executive, the Judiciary and the Legislature should be evenly balanced and the Executive should not be permitted in any way to curtail the rights of the Judiciary or the Legislature; but here in India, not only by the powers under the Ordinances, but the Constitution having provided a solid block of officials, the Legislature has been turned into a farce. The only other thing that is left is the Judiciary; and though there is lip sympathy and admiration and high praise by the Executive for the Judiciary, whenever there is an occasion, the power of the Judiciary is attempted to be curtailed, and this is one of those occasions when the Government, without showing that there exists an emergency, are trying to cut at the root of the substantial powers of the Judiciary in this land.

Sir, the basic principle of the British Constitution is the rule of law. My Honourable friend, Mr. Neogy, told the House only the other day that whenever there was a political case and the accused, whether after speedy trial or regular trial, were acquitted—in fact it was no exaggeration to say that in cent. per cent. cases, as soon as the accused was discharged or acquitted and came out of the lock-up, he was arrested under what is known as the Criminal Law Amendment Act, and if the conviction under the section in which he was charged made him liable to the maximum sentence of two years, under the Criminal Law Amendment Act he was invariably detained in jail for an indefinite period of time. Now, does that show any respect of the Executive for the Courts of law here in India, when even after an elaborate judicial trial, the accused are found to be innocent or the offence laid at their door is found to be not proved, these people are detained in jail for an indefinite period? Sir, I do not know whether on this motion, we will have, in opposing this Bill, the support of my Honourable friend, Mr. Biswas, because perhaps in voting for some of the clauses he did vote with us and sometimes against us; but now I claim his support, because he represents the great City of Calcutta, where, as we all know, these drastic measures are being applied ruthlessly and vigorously.

Sir, I think all will admit that when an emergency becomes a permanent feature, it ceases to be an emergency. Government should take stock of the situation to find out that these palliatives, these quack remedies, will be of no avail to them if there is really a widespread discontent and lawlessness in the country as has been so well put by my friend, Pandit Satyendra Nath Sen. With these words, I oppose the passing of this Bill.

**Mr. O. C. Biswas** (Calcutta: Non-Muhammadan Urban): Sir, I did not wish to make another speech on the third reading of this Bill, but my Honourable friend, Mr. S. C. Mitra, has made an appeal to me. It is my misfortune that in this matter I do not see eye to eye with him or with some of my other friends. I confess that the temptation to be led away by sentiment is much too strong, and somewhat difficult to resist. Measures like these afford only too easy targets for attacking those who are responsible for them. But, Sir, I venture to ask my friends, if Government have a responsibility, is there none so far as we are concerned? And I ask further: Is that responsibility discharged by discharging only a volley of worn-out platitudes or captivating catch-phrases? Some of my friends are so fond of strenuous superlatives, may I remind them that the adjective is the enemy of the substantive. I say, Sir, that you must face the situation fairly and squarely. Are you prepared to say that the dangers which these measures are designed to meet are imaginary and not real? Province after province, presumably with a due sense of responsibility have enacted these measures. My friends have called them drastic. Drastic they are, but nevertheless they are measures which those, who are in a better position to judge the situation than we here, have felt it necessary to have in the larger interests of the community, in order, Sir, to meet a crisis, not an imaginary but a real crisis, which, as my friends know very well, has left its blood-stained trail behind in many parts of the country. What should be our attitude in a situation of that kind? The crisis is not yet over. It may be that the raging flames have been brought somewhat under control but who knows that the smouldering embers may not burst into flame again? Should we, in such circumstances, be justified in taking risks? Some of my friends have said that a repressive policy never pays, repression defeats its own object: it stiffens the gristles of infancy into the bones of manhood: it drives discontent under-ground. Well, Sir, all that may be true, risks there possibly are, but consider also the risks to which we should be exposed if we did not take any action whatever. Let us not forget that here is a cankerous sore in the body politic. No doubt the patient requires nutritive diet, he requires healthful exercise, but the surgeon's knife cannot be dispensed with altogether. So, I say that it will not do merely to say that legislation of this kind is an invasion of the liberty of the subject. If there is restriction of liberty for some, there is liberty for the greater majority of the people. After all, the test we ought to apply in a matter of this kind is, what is the greatest good of the greatest number? Sir, I would venture to remind my friends that repression is not the only policy which fills the canvas, and I would appeal to them, with all the earnestness I can command, not to be looking merely at one side of the picture. Why, I ask, turn your eyes merely on the shadows in the valley, and not lift up your gaze for a moment to the glistening crags, to the gleaming slopes of verdure, to the great sweeping burst of sunshine on the tops? (*A Voice*: "Swaraj for ever!") My friend over there ejaculates, "Swaraj for ever." I say "Amen, Swaraj for ever", and it is because I believe that the road to Swaraj lies not through blood-shed and anarchy, but through co-operation, through goodwill . . . . .

**Mr. Gaya Prasad Singh** (Muzaffarpur *cum* Champaran: Non-Muhammadan): Through sychophancy.

**Mr. C. C. Biswas:** Not through sychophancy, Mr. Gaya Prasad; that may be your monopoly. Do not judge others by your own standard. Do not play to the gallery here, and then "kow-tow" to the powers that be behind the scene. Have the courage to speak out your mind, if you can, but do not indulge in these cheap sneers, and do not make these cheap bids for popularity. Sir, I would say to my friends that the situation is not one to make light of. Everyone of us ought to have a due sense of responsibility and because some of us may not agree with the views of others, it does not follow that those who differ must be actuated by unworthy motives. Sir, there is room both for my friends and for me to worship in the same temple, the temple of freedom, but that does not mean that I must be wedded to their particular mode of worship. I say once again that we should be betraying a woeful lack of our sense of responsibility if, without any consideration of the requirements of the situation, we were to indulge in vague and general attacks only for the sake of making those attacks. My friends here during the last two days have subjected this Bill, specially the legal aspects of it, to a very close and critical analysis. Sir, I do not pretend to be a great lawyer, and I tremble to tread on such dangerous ground again. I see my Honourable friend, the Prince of lawyers, sitting over there. Sir, if I might indulge in a digression, there are three stages in a lawyer's career; he first gets on, next he gets 'on-er' (honour), and finally he gets 'on-est' (honest). Sir, without being presumptuous, I can say very humbly that I am still struggling and straggling in the early stage, and, therefore, when I find myself in the presence of those who have passed the third degree,—if I might use that expression,—who have passed from the stage of 'honest' to that of ———, shall I say, super-honest, I feel I must speak with bated breath and whispering humbleness! Seriously speaking, Sir, there is just one thing I will remind them of, and that is this, that this Bill does no more than seek to follow the lines of several other Bills of an exactly similar description, which this House has passed within recent times.

**Mr. B. Das** (Orissa Division: Non-Muhammadan): Sir, I rise to oppose the passing of this Bill and the Acts on which this Bill is based. I know my talented legal friends have shown all the ugly features of this Bill, but I am not a lawyer and so I need not argue on the legal aspect of the measure.

Sir, I am surprised to find discrepancies in some of the Provincial Acts. In some provinces, the Act has been framed to last for one year, in Bengal it is for two years and, in my unfortunate province of Bihar and Orissa, it is made for three years. I cannot understand why it is made for three years in Bihar and Orissa. Then, Sir, as everybody knows, Orissa is tied to the apron-strings of Bihar and, whether the safety of Bihar is threatened or not, I do not know, but I know that there is no such fear in Orissa. And as Orissa is going to be divorced from Bihar in a year, I would appeal to Government to take note of it. I know that in spite of my voting on the Opposition side, Government will pass this Bill and it will become an Act. But they should see that this Act does not apply to Orissa when Orissa is separated. I find that the Central Provinces and your province of Madras, Sir, do not need such an Act and I hope this point will be borne in mind with regard to Orissa. Sir, I think the titles



[Mr. B. Das.]

of the Acts are misnomers. They ought to have been named the Bihar and Orissa Government Safety Act and the Bengal Government Security Act, because these Acts give safety and security to the Governments there and not to the public.

Sir, my friend, the Honourable the Home Member, talked of the application of the Bengal Security Act in Bengal very recently where—under the Congress leaders were arrested. Here I have got a letter to show how the Act has been applied. Everybody knows that Mr. M. S. Aney is the acting President of the Congress and he was also a very respected Member of this House. But the treatment that was meted out to Mr. Aney in the Midnapur jail after his arrest was the grossest insult that could be offered to the Congress. I will just read a few lines from this letter:

"It need not be mentioned that he (Mr. Aney) had to suffer all the worst indignities which is the fate of the 'C' class prisoners. He had to allow his person and belongings to be searched by a rude warder. He was not given any special food to which he was accustomed. He was not allowed to have his articles used for his daily 'Sandhya'."

For the benefit of my Honourable friend, the Home Member, I may explain that "Sandhya" means morning and evening prayers:

"He had to use only two aluminium pots along with the other 'C' class prisoners. He was kept in a small barrack wherein about 125 persons were huddled together but which could hardly accommodate 60 persons. He was asked by the Jemadar to undergo the *Sarkar Salaming* process by first sitting down in twos, and then standing when the Superintendent arrived for verification. When Mr. Aney refused to comply with this humiliating procedure, he was forcibly made to sit down and then again forcibly made to stand up by two or three warders in the presence of the Superintendent, who probably thought nothing wrong in the whole incident."

Sir, if this affront and this insult was offered to the acting President of the Congress, then it is no use for us on this side of the House to condemn these Bills which are meant to give security and safety to the different provincial Governments and also to the Government of India. The Honourable the Home Member, if he can refresh his memory, will admit that he issued special instructions that prominent citizens, who become political prisoners in the past, were not forced to do such "*Sarkar Salaming*" as Mr. Aney has been forced to. Why was Mr. Aney chosen by the Government of India for such treatment? Today he occupies the highest position in this country as the acting President of the Congress. This is the Government's way of dealing with their enemies,—enemies, who, as a former Viceroy, Lord Irwin, said from the greatest political party in the country and to which even a Conservative Secretary of State pays respect, although he knows that if the Congress goes to confer with them in London their apple-cart will be upset. If Government want even at this stage to practise such inhuman treatment on the highest personage in the Congress ranks, it is no use our appealing to them to be fair and just. I only wish to say this to the Leader of the House that he must hang down his head in shame that in his own province the President of the Congress was treated in the way this letter shows. I, who am a

12 Noon. neighbour of the Bengalees, feel ashamed that it was done in a province for whose public men, for whose good people I have so much respect. I know both of them, the Honourable the Home Member and the Leader of the House need not reply, as they have got the heads behind their back, they have the support of the European Group to stand on their side for law and order, and I know that today, tomorrow and day after tomorrow the European Group will hob-nob with my friend;

Sir Cowasji Jehangir, over the Anti-Dumping Bill and over the Indian Income-tax (Foreign Income) Bill which are coming up before the House. But today the European Group—I find the whole Bench is empty—they have nothing in common with the Indian interests, but when it touches their pockets, half of which my Honourable friend, Mr. Mody, has filled on the one side and the other half, *i.e.*, the European merchants pocket, is filled on the other side, then they go and hob-nob with nascent industrialists. What do they care for the industry or the country? They always vote with the masters of the country and side with the Government in every inhuman measure that the Government bring forward. I would not wish, Sir, to prolong the agony. It is humiliating to me to have read this letter that the Bengal Government, under the guise of this Bengal Public Security Act, the sanction of which was given by my Honourable friend, Sir Harry Haig, applied it to coerce those who are attending the Calcutta Congress Session. The President of the Indian National Congress was insulted in the way he was insulted at Midnapore. He was made to sit and stand under orders and to learn at his advanced age to do the *Sarkar Salaming* trick. Nemesis will tell upon the Government one day. You may promulgate the White Paper, you may do anything you like, but remember, you are thereby only goading the people to revolution, and nothing else.

**Sir Cowasji Jehangir** (Bombay City: Non-Muhammadan Urban): Mr. President, I had no intention whatsoever of addressing the Honourable House on this occasion as I have already expressed the views I had to express on the merits of the Bill that is before the House. But the remarks made by my Honourable friend, Mr. B. Das, have made me think of a question which did arise in this Honourable House about a year and a half ago and which I really think requires attention. I do not think my Honourable friend improves his case by making unnecessarily rude remarks, but the point that he has brought to the attention of the House is one which perhaps may beneficially occupy the attention of my Honourable friend, the Home Member. (*Mr. B. Das*: "Thank you, thank you.") My Honourable friend, the Home Member, will recollect that the Government of India issued instructions as to the classification of political prisoners into A, B and C classes. Speaking from memory now, because I have no papers before me, this classification, into A, B and C classes, was the result of the report of a Committee. Now, Sir, we find in Bombay that the instructions that were given by the Government of India to the Government of Bombay, and I presume to most of the Provincial Governments or all Provincial Governments in India, were not being carried out and I will just give you one or two instances. There has been no change in the instructions of the Government of India since 1931, but there are political prisoners today classed as B and C who were in 1931 classed as A, and there appears to me to be no reason for this change.

**The Honourable Sir Harry Haig**: May I ask, Sir, how this is relevant to the subject we are discussing?

**Sir Cowasji Jehangir**: My only reason for this is the relevancy of the remarks made by Mr. B. Das and, if my Honourable friend, Mr. B. Das's remarks have been irrelevant, I stand corrected, but if my friend, Mr. B. Das's remarks have been relevant, then I presume. . . . .

**Mr. President** (The Honourable Mr. B. K. Shanmukham Chetty): Order, order The Chair allowed the Honourable Member, Mr. B. Das, to make those observations, because the Chair understood the Honourable Member to bring to the notice of this House an instance in which this Act was applied, but, if the Honourable Member wants to make elaborate discussion on the classification of political prisoners, he will not be in order. He would be in order so far as the Honourable Member wanted to bring to the notice of the House instances of the way in which a section of the Act has been applied.

**Sir Cowasji Jehangir:** I do wish to draw the attention of the Honourable the Home Member so that he might look into this question and really try and find out whether his instructions or the instructions of the Government of India are being carried out, and I will refer him to a memorandum submitted to the Government of India over a year and a half ago by the Western India Liberal Association on this very question. The memorandum was drafted and sent after full enquiries. The memorandum gives facts and figures. I do appeal, Sir, to the Government Benches that this changed classification is quite unnecessary under the present conditions, and that it will react not only on Government but upon the political situation in the future. All these prisoners are bound to come out, and it is our earnest desire, not only on this side, but, I am sure, it is the earnest desire of Government Benches, and I know it is the desire of His Majesty's Government (Hear hear) that the men who are political prisoners today will come out to work the Constitution. If that is our mutual desire, then I do think that this question of classifying men as C and B class prisoners, who were at one time classified as A class, is a change of policy, which is unnecessary and harmful to the interests not only of this country, not only of the British Government, but most harmful to the policy that is being adopted by His Majesty's Government. I believe, Sir, that this question will be one of the most important questions to be discussed in this country when these prisoners come out. This is merely an echo that we hear just now. But I make bold to say that when the day arrives—and it is going to arrive most probably fairly soon,—when these political prisoners come out and tell us what has happened within the walls which now hide them, there may be an uproar which Government may regret; and it may only be due not to any intentional Act, but to not seeing that the Government of India's instructions are properly carried out. Those instructions are in writing: they are in communiqués; and there is no reason why these instructions should not be carried out; and if they are not to be carried out, we ought to know the reason why; and different instructions should be issued, which we can understand and thereby realise that there is a change of policy. But as long as the policy remains which was in force in 1931 during the first civil disobedience movement, if that policy still stands—and we have not been informed of any change in the policy—then I would earnestly appeal to the Honourable the Home Member that when he has got rid of all this work that he is being worried with just now—and I trust it will be very soon that he will be free from the worries of this Legislative Assembly—to devote half an hour to this question, which I think will repay the trouble he will take.

**Some Honourable Members:** The question may now be put.

**Mr. B. V. Jadhav** (Bombay Central Division: Non-Muhammadan Rural): Sir, although I am a supporter—a staunch supporter of law and order—I regret that I have on this occasion to oppose the motion. But before I begin my remark, I have to raise a protest against the Benches which generally support Government on every occasion. They not only gag us at the time of voting, but they now seek to gag us even from opening our minds in this House. To speak our mind is the only consolation we have, of having done our duty and that is being denied by those Members. I hope they will exercise more patience and hear what the other side has to say. I do not mean to say that myself or any other of my friends here will be able to change their views, and even if they succeed in changing their views, it is almost impossible to induce them to walk into the lobby with us. For this reason they ought to hear us with patience.

Sir, I am opposed to the Bill, because it seeks to strengthen the chains that have been forged by the Provincial Governments for binding the liberties of the subject. The ordinary law of the land is now supplemented by what was formerly known as Ordinances and which are now changed into regular Acts. But the Acts enacted by the Provincial Legislatures were not complete and they are now being supplemented by legislation in this House; and also the Bill will be passed in another place.

It is intended by this Bill to give an indemnity to all Government servants for excesses and for transgression of their duties. A protest was raised day before yesterday about this. An Indemnity Act is generally passed for past misdeeds if it is considered necessary in the interests of the public service to do so; and nobody generally is likely to take exception to that. But to give a blank cheque, to assure beforehand every servant of the Government and of the preventive service, I shall say, good, bad or indifferent, that his acts, provided nobody can challenge their good faith, were to be exempt and were not to be called into question in any Civil or Criminal Court, is, I submit, to invite disaster, to invite indifferent servants to go beyond their duty and to inflict many a time wanton injury upon any subject however high placed. One of these instances has been cited here just now, that Mr. Aney was subjected to certain indignities. Perhaps the Superintendent or his subordinates showed a weakness of their mind: they were puffed up with vanity; they wanted to show their dignity or their power or the majesty of the law or anything else; in order to show that they were very superior beings, they have acted in that ungentlemanly way against Mr. Aney. But, at the same time, I shall have to raise a protest against the mentality of some of my friends here; and I beg their pardon for doing so. I do not mean to say that Mr. Aney was subjected to this treatment, because he was the acting President of the Indian National Congress, and no one should claim that the acting President of the Indian National Congress should be treated in a special way. I think such a claim is preposterous and I do not like even the idea. I think every gentleman must be treated in a gentlemanly way, whether he be a member of the Congress, or the President of the Congress, or not connected with the Congress at all. A man's position ought not to improve or deteriorate simply because he holds a particular office in the political organisation of the country. But all the same, I have my sympathies with Mr. Aney, because he was subjected to an indignity, and I hope that the

[Mr. B. V. Jadhav.]

Honourable the Home Member will take notice of this. I may tell him that the lower subordinates are many a time induced to go beyond their powers and do something in order to strike terror. As they see that the object of Government in passing these Acts is to strike terror into the minds of those persons who are foolish enough to take to agitation on this occasion, as faithful servants they wish to carry out the objects of their masters, the Government of India, they in their own way devise means of striking terror into the minds of those who have been committed to their care. For these reasons many of the officers in jails and their subordinates are unduly harsh and cruel and cause unnecessary inconvenience to the persons put under their control. I am afraid, Sir, the object of the Government will not be fulfilled. Their object is to strike terror, and in that way to suppress the movement. But the recent attempt of Government to prohibit the meeting of the Indian National Congress has shown that their eighteen months' policy of striking terror has not succeeded to an appreciable extent. More and more people are coming forward to join in the agitation and to run the risk of being arrested and convicted. Government ought to take notice that their object of striking terror is not being fulfilled and, therefore, it is now high time that they should change their policy; and I am very glad to note that there is a real change of heart. The way in which the persons recently arrested have been treated and have been let off is an example and an earnest that the Government do intend to change their policy and to take up a more moderate way of dealing with the present unrest. It is the intention of the Government to preserve law and order, and for that purpose they themselves have been obliged to depart from the ordinary laws of the land. Do Government intend, by brushing aside the ordinary laws of the land, to inculcate a strong sense of loyalty in the minds of the people? The remedy chosen by Government to induce respect and love for law and order is the very negation of that. They have suspended the ordinary laws of the land; they have imposed on the land arbitrary laws, and in this way they want to teach people to love law and order. Morality and good principles are inculcated in schools sometimes by reading lessons on morality and religion to them, but the masters who teach these lessons are many a time immoral themselves. The teaching from books has no effect. The same is the case here. Government intend to inculcate love for law and order in the minds of the subjects; but the methods chosen by them are the very reverse of that. In the first place, they have abrogated the ordinary law. They have suspended all those precautions which are laid down in the law for the protection of the innocent. It is the principle of law that a thousand guilty persons may get away free, but one innocent man should not be convicted. Now, under the present system, a thousand innocent persons are sent to jail if Government want to catch hold of one guilty person. How is love for law and order being inculcated? A person who has been regularly tried in a Court of law and found innocent and discharged is at the very next moment even within the Court premises arrested under the Ordinances. Why should Government waste money and time of the Courts in bringing those offenders to trial? If Government think those persons are very dangerous persons and they ought not to be set free at once, they should be caught under the Ordinances and imprisoned in the first instance. Why should there be all this trouble of trying them, evidence taken before the Courts, and, so on, and, after all this, when these

people are acquitted, the next moment they are caught by a policeman and taken to the prison again under the Ordinances? This is not the way of inculcating love and respect for law and order. It is teaching the people quite the wrong way. People are being convinced that British rule is oppressive, that law is not respected and lost sight of; at all events order there may be, but law is almost absent, and in this way the loyalty of the people is being affected to a very large extent. If Government desire that there should be love for law and order, they ought to show that they themselves do stand for law and not for arbitrary action. Now, under the present Bill, they are going to remove the jurisdiction of the High Court. People have great confidence in the justice of the High Courts. But when justice is being denied, the peoples' confidence in British rule is being shaken. For all these reasons, Sir, I think that such Bills as these are quite unnecessary and are likely to cause more mischief, and, therefore, they ought not to find a place on the Statute-book. I therefore, oppose this measure.

**An Honourable Member:** I move, Sir, that the question be now put.

**Sir Abdur Rahim** (Calcutta and Suburbs: Muhammadan Urban): Sir, I cannot allow this Bill to pass without one final word of protest on general grounds of policy. Until a few years ago, we Indians have been supporting the British rule mainly because the Government have been upholders of what is called the rule of law. It had been the greatest merit of the British Government in the country that no Indian could be arrested and his personal liberty taken away, nor his right to property affected in any way or his rights of association destroyed without trial in a Court of law. That was the feature of British rule which, as I am sure, my Honourable friend, the Home Member, will recognise fully, made British rule so popular in this country. But, Sir, I have noticed that during the last five years or so this rule of law has been greatly encroached upon from day to day. Now, it is very difficult to say to what extent this rule obtains in the country. This is a very serious matter, and I am not consoled even by the fact that there is going to be launched a new Constitution by which some more power perhaps may be delegated to the representatives of the people. If, at the same time, the rule of law is going to be destroyed or to be largely weakened, then, I say, no Constitution like that will be a good substitute. After all, the object of any free Constitution is to see that the people enjoy political liberty, that they manage their affairs in their own way without being questioned by any sort of executive, since the executive itself would be responsible to the people. Now, Sir, if that order of things is going to change radically, I am afraid the future Government of the country will have even greater difficulties to encounter than the present Government are encountering today. Once the fundamental rights and liberties of the people, which are guaranteed by the rule of law, are allowed to be interfered with by the Executive, then we are face to face with a state of things under which no Government of the future can expect to have full support of the people. It is a very valuable and cherished right of ours, that if the executive think that any particular individual has infringed the law, that individual is entitled to have a fair trial according to ordinary procedure. His liberty should not be interfered with in any way except under the judgment of a Court of law. What happened the other day in the House of Commons? Two or three British

[Sir Abdur Rahim.]

subjects in Russia have been arrested and are being dealt with under a procedure which is not known perhaps to the British law, which is the basis of the law that prevails in this country. What action is the Parliament taking now? They propose to take very severe steps to deal with the matter, even at the risk of breaking friendly relations with a great country like Russia. Now, Sir, it would be surprising indeed that any Indian living in this country should allow laws of the character under discussion to be passed without challenge. We all know that there have been certain movements against the ordinary processes of law, movements like the civil disobedience movement, and there is also a band of men, desperate men, who have taken to terrorists' crimes, but that, as I have said repeatedly in this House, is no justification whatsoever for passing laws of a character which deprive the ordinary citizen of India of his ordinary rights, rights which have hitherto been fully recognised by the Government of the country and regarded by the people as inviolate and sacred. That is the principle upon which I protest against this Bill.

**Several Honourable Members:** The question be now put.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is that the question be now put.

The Assembly divided:

AYES — 48.

Abdul Hye, Khan Bahadur Abul  
Hasnat Muhammad.  
Acott, Mr. A. S. V.  
Ahmad Nawaz Khan, Major Nawab.  
Allah Baksh Khan Tiwana, Khan  
Bahadur Malik.  
Amir Hussain, Khan Bahadur Saiyid.  
Bajpai, Mr. G. S.  
Bhore, The Honourable Sir Joseph.  
Clow, Mr. A. G.  
Dalal, Dr. R. D.  
Dutt, Mr. G. S.  
Dutt, Mr. P. C.  
Fox, Mr. H. B.  
Ghuznavi, Mr. A. H.  
Haig, The Honourable Sir Harry.  
Heslett, Mr. J.  
Ismail Ali Khan, Kunwar Hajee.  
Jawahar Singh, Sardar Bahadur  
Sardar.  
Lal Chand, Hony. Captain Rao  
Bahadur Chaudhri.  
Leach, Mr. A. G.  
Mackenzie, Mr. R. T. H.  
Megaw, Major General Sir John.  
Metcalf, Mr. H. A. F.  
Miller, Mr. E. S.  
Miers, Mr. B. N.

Mitchell, Mr. D. G.  
Mitter, The Honourable Sir  
Brojendra.  
Morgan, Mr. G.  
Mukherjee, Rai Bahadur S. C.  
Nihal Singh, Sardar.  
Noyce, The Honourable Sir Frank.  
Rafiuddin Ahmad, Khan Bahadur  
Manvi.  
Raisman, Mr. A.  
Rajah, Rao Bahadur M. C.  
Rau, Mr. P. R.  
Ryan, Sir Thomas.  
Schuster, The Honourable Sir George.  
Scott, Mr. J. Ramsay.  
Seaman, Mr. C. K.  
Shafee Daoodi, Maulvi Muhammad.  
Sher Muhammad Khan Gakhar,  
Captain.  
Singh, Mr. Pradyumna Prashad.  
Smith, Mr. B.  
Tottenham, Mr. G. R. F.  
Trivedi, Mr. C. M.  
Vachha, Khan Bahadur J. B.  
Wajihuddin, Khan Bahadur Haji.  
Yakub, Sir Muhammad.  
Yamin Khan, Mr. Muhammad.

## NOES—21.

Abdur Rahim, Sir.  
 Azhar Ali, Mr. Muhammad.  
 Das, Mr. B.  
 Dutt, Mr. Amar Nath.  
 Gour, Sir Hari Singh.  
 Gunjal, Mr. N. R.  
 Jadhav, Mr. B. V.  
 Kyaw Myint, U.  
 Liladhar Chaudhury, Seth.  
 Mitra, Mr. S. C.  
 Murtuza Saheb Bahadur, Maulvi  
 Sayyid.

Neogy, Mr. K. C.  
 Patil, Rao Bahadur B. L.  
 Rao, Mr. M. N.  
 Sant Singh, Sardar.  
 Sarda, Diwan Bahadur Harbilas.  
 Sen, Mr. S. C.  
 Sen, Pandit Satyendra Nath.  
 Singh, Mr. Gaya Prasad.  
 Uppi Saheb Bahadur, Mr.  
 Ziauddin Ahmad, Dr.

**The Honourable Sir Harry Haig:** My Honourable friend, the Leader of the Independent Party, lamented the existence and the promotion of such special legislation as this and he invited our attention to the merits of the ordinary law. Sir, I entirely agree with him. The ordinary law is far the best, but, Sir, I would remind him that the ordinary law is for ordinary times and ordinary conditions, and when circumstances arise in a country, as they have arisen here lately and as they have in many other parts of the world, it is necessary for new dangers to be met by new remedies. I would only add that in this legislation we are merely providing not that the ordinary judicial functions of the High Court should be taken away, but that certain special executive powers which the Local Legislatures have found it necessary to invest the Local Governments with should not be affected by proceedings in the High Courts. I would add only one word, Sir, with reference to what my Honourable friend, Mr. B. Das, said. I did not catch the name of his correspondent (*Mr. B. Das*: "He is an *ex*-Member of the Assembly."), but I would say that I myself have examined so many allegations of this character and found them to be exaggerated or unfounded that I should not be prepared, without examination, to accept that story; and I would remind the House that, so far from the Government recently having shown any anxiety in connection with this Congress Session to humiliate the members of the Congress, on the contrary, as my Honourable friend, Mr. Jadhav, pointed out, they have treated them with the utmost consideration. I do not think, Sir, at this stage it is necessary for me to do more than say that, in the opinion of the Local Governments, the passing of this legislation is essential in order to complete the Acts which their own Legislatures have already passed.

The motion was adopted.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That the Bill to supplement the provisions of the Bengal Public Security Act, 1932, the Bihar and Orissa Public Safety Act, 1933, the Bombay Special (Emergency) Powers Act, 1932, the United Provinces Special Powers Act, 1932, and the Punjab Criminal Law Amendment) Act, 1932, for certain purposes, as amended, be passed."



The Assembly divided:

AYES—48.

Abdul Hye, Khan Bahadur Abul  
Hasnat Muhammad.  
Acott, Mr. A. S. V.  
Ahmad Nawaz Khan, Major Nawab.  
Allah Baksh Khan Tiwana, Khan  
Bahadur Malik.  
Amir Hussain, Khan Bahadur Saiyid.  
Anklesaria, Mr. N. N.  
Anwar-ul-Azim, Mr. Muhammad.  
Bajpai, Mr. G. S.  
Bhore, The Honourable Sir Joseph.  
Biswas, Mr. C. C.  
Clow, Mr. A. G.  
Dalal, Dr. R. D.  
Dutt, Mr. G. S.  
Dutt, Mr. P. C.  
Fox, Mr. H. B.  
Ghuznavi, Mr. A. H.  
Haig, The Honourable Sir Harry.  
Hezlett, Mr. J.  
Ismail Ali Khan, Kunwar Hajee.  
Jawahar, Singh, Sardar Bahadur  
Sardar.  
Lal Chand, Hony. Captain Rao Baha-  
dur Chaudhri.  
Leach, Mr. A. G.  
Mackenzie, Mr. R. T. H.

Megaw, Major General Sir John.  
Metcalf, Mr. H. A. F.  
Millar, Mr. E. S.  
Mitchell, Mr. D. G.  
Mitter, The Honourable Sir Brojendra.  
Morgan, Mr. G.  
Mukherjee, Rai Bahadur S. C.  
Noyce, The Honourable Sir Frank.  
Pandit, Rao Bahadur S. R.  
Rafuddin Ahmad, Khan Bahadur  
Maulvi.  
Raisman, Mr. A.  
Rajah, Rao Bahadur M. C.  
Rau, Mr. P. R.  
Ryan, Sir Thomas.  
Schuster, The Honourable Sir George.  
Scott, Mr. J. Ramsay.  
Seaman, Mr. C. K.  
Sher Muhammad Khan Gakhar,  
Captain.  
Singh, Mr. Pradyumna Prashad.  
Smith, Mr. R.  
Tottenham, Mr. G. R. F.  
Trivedi, Mr. C. M.  
Vachha, Khan Bahadur J. B.  
Yakub, Sir Muhammad.  
Yamin Khan, Mr. Muhammad.

NOES—30.

Abdur Rahim, Sir.  
Azhar Ali, Mr. Muhammad.  
Das, Mr. B.  
Dutt, Mr. Amar Nath.  
Gour, Sir Hari Singh.  
Gunjal, Mr. N. R.  
Jadhav, Mr. B. V.  
Jha, Pandit Ram Krishna.  
Joshi, Mr. N. M.  
Kyaw Myint, U  
Liladhar Chaudhury, Seth.  
Misa, Mr. B. N.  
Mitra, Mr. S. C.  
Murtuza Saheb Bahadur, Maulvi  
Sayyid.  
Neogy, Mr. K. C.

Pandian, Mr. B. Rajaram.  
Parma Nand, Bhai,  
Patil, Rao Bahadur B. L.  
Reddi, Mr. T. N. Ramakrishna.  
Roy, Kumar G. R.  
Sadiq Hasan, Shaikh.  
Sant Singh, Sardar.  
Sarda, Diwan Bahadur Harbilas.  
Sen, Mr. S. C.  
Sen, Pandit Satyendra Nath.  
Singh, Kumar Gupteshwar Prasad  
Singh, Mr. Gaya Prasad.  
Thampan, Mr. K. P.  
Uppi Saheb Bahadur, Mr.  
Ziauddin Ahmad, Dr.

The motion was adopted.

The Assembly then adjourned for Lunch till a Quarter Past Two of the Clock.

The Assembly re-assembled after Lunch at a Quarter Past Two of the Clock, Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) in the Chair.

### THE AUXILIARY FORCE (AMENDMENT) BILL.

**Mr. G. R. F. Tottenham** (Army Secretary): Sir, I move:

"That the Bill further to amend the Auxiliary Force Act, 1920, for certain purposes as reported by the Select Committee, be taken into consideration."

When, Sir, at the beginning of February I moved that this Bill should be referred to a Select Committee, I took the opportunity to give a fairly full explanation of the principles underlying the re-organisation of the Auxiliary Force which we proposed to carry out if and when the Bill was passed into law. I do not think it is necessary for me today to repeat those explanations. It will be sufficient if I remind the House that this is primarily an economy measure, designed to secure a saving of 15 lakhs of rupees, and that we hope to secure those savings, not by reducing the total strength of the Auxiliary Force, but by limiting the strength of the active class, that is to say, the expensive class which receives regular training every year, to the numbers required to perform the functions that they are likely to be called upon to carry out in the event of a local emergency. At the early stages this Bill met with no opposition and the Select Committee, after going through the Bill, clause by clause, found no criticisms to make.

I am aware that there are two amendments on the paper, but both of these deal with a single minor matter and I may say at once that, if the House so wishes, Government will be prepared to accept them. I personally think that they do make a distinct improvement in the wording of the Bill.

I am also aware, Sir, that in certain quarters apprehensions have been expressed lest our proposals should be too drastic and discourage persons from joining the force or possibly deter employers from allowing their employees to do so. I very much hope that this will not be the case. Although we are restricting the strength of the active class—and I think quite justifiably—we have no intention of discouraging men from joining the force or placing unnecessary difficulties in their way. We shall give very full discretion to commanding officers to take in those men whom they consider suitable; and we shall not insist on any certificate from them or from their employers, in black and white, to the effect that they will be available on any and every occasion. What we wish to avoid, and what we have not been able to avoid in the past, is taking on men about whom there is no doubt that they will not be available when their services are required. We also desire to encourage men to join the reserve class of the force, where they will be supplied with rifles and will undergo a musketry course every year.

After all, Sir, it is impossible to make an omelette without breaking eggs and it is impossible to save 15 lakhs of rupees without disturbing one single individual. We shall endeavour to distribute the sacrifices that have to be made as evenly as possible, having regard to the necessities of the case, and I have no doubt that the communities concerned will realise, in spite of their natural disappointment in some cases, that it is impossible to please everybody, that there is a very real demand for the reduction of military expenditure and that the Auxiliary Force should take its full share of the reductions to be made.

Sir, I move.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

“That the Bill further to amend the Auxiliary Force Act, 1920, for certain purposes, as reported by the Select Committee, be taken into consideration.”

The motion was adopted.

Clauses 2, 3, 4, 5 and 6 were added to the Bill.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is that clause 7 stand part of the Bill.

**Mr. R. Smith** (Bengal: European). Sir, I move:

"That in part (iii) of clause 7 (a) of the Bill, in the proposed clause (b), the words 'until discharged from the Auxiliary Force, India, as hereinafter provided' be omitted."

As the Bill stands, the clause reads:

"Every such person who is transferred from the Active Class under the provisions of clause (a) or who on enrolment is assigned to the Reserve Class by order of the Officer Commanding the corps or unit shall be included in the Reserve Class until discharged from the Auxiliary Force, India, as hereinafter provided."

In other words, the Bill, as it stands, provides that a man once in the Reserve Class remains there permanently. I wish to remove the latter portion of the clause and so open the way for the transfer of a member of the Reserve Class to the Active Class. Later on, Sir, I hope to move my second amendment which provides positively that a man may definitely be transferred from the Reserve to the Active Class and remain in the Active Class for an indefinite period. These are, Sir, my objects. They are very simple and plain and I do not think I need say any more about them.

I come then to the reasons. I can do so best by reminding Honourable Members of the factor of suitability that is referred to in the Statement of Objects and Reasons appended to the Bill when it was introduced. It was said in that statement that suitability did not necessarily depend solely upon age. I want to develop that point more positively now, with particular regard to the large and important section of the force that must be recruited from civilians in private employment. For these men it will be found that suitability must predominantly depend upon availability. If an employer says to a man that he will be available both for training and for service in the Active Class, that man in the great majority of cases will be deemed to be suitable for inclusion in that Class. If, on the other hand, the employer has to say that not only will he not be available on each and every occasion, but that generally he will not be available, then we may rest assured that that man is not suitable for the Active Class. What I wish to point out is this, that a man may become temporarily unavailable and, therefore, unsuitable for the Active Class. This will arise with the type of man I am talking about in several ways, but in the main the necessity will arise, certainly in the majority of cases, through firms and companies having to arrange their staff programme so as to provide for a certain number of the staff to go on leave periodically. When men go on leave, they have to be replaced by other men who thereupon very often have to take up more onerous and important duties for their employers. That position may last for a year. Then, with the advent of another year, they become available again, in other terms, suitable again, for inclusion in the Active Class. That is a particular and a recurring feature in this type of employment. I will further point out, Sir, that in a company with a very large staff of employees the number of men who are thus temporarily unavailable and, therefore, unsuitable year by year may be fairly constant. The individuals will vary year by year but there will always be more or less a definite number of men who are temporarily unavailable. This may not apply so much to

smaller concerns, but if you take them as a group, you will get the same average, and if you take the community as a whole, you will get a fairly definite number of men who will year by year become unavailable, but for that year only. Now, as the Bill stands, these men, or at any rate a very large number of them, might be put in the Reserve Class, and there they will have to remain until they take their discharge. Take this year. You will have a class of what I might call 1933 unsuitables. They go into the Reserve Class and remain there and next year they will be joined by a new batch of 1934 unsuitables, and so on. This, Sir, I suggest, will defeat the very object of the Bill. It will militate against both efficiency and economy. I also think that it will make the force rather more unattractive to the keen man who will be willing enough to go into the Reserve Class when he knows perfectly well that his onerous civil duties render him for the time being unsuitable for inclusion in the Active Class, but he will not be very pleased to remain in the Reserve Class once he is freed from his civil duties for inclusion in the Active Class. These, Sir, are my reasons and I hope that my amendment, particularly as it is going to be accepted by Government, will have the support of the House.

**Mr. G. R. F. Tottenham:** Sir, I have already said that I am prepared to accept this amendment and I do not think I need add anything to the very clear speech which Mr. Smith has made explaining the need for it.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That in part (iii) of clause 7 (a) of the Bill, in the proposed clause (b), the words 'until discharged from the Auxiliary Force, India, as hereinafter provided' be omitted."

The motion was adopted.

**Mr. R. Smith:** Sir, I move:

"That for part (ii) of clause 7 (c) of the Bill, the following be substituted:

'(ii) for the words 'for any training year in any other Class for which more periodical training is specified in Schedule I' the words 'in the Active Class' shall be substituted; and '."

The object of this, as I have really already explained, is to make positive provision whereby a man in the Reserve Class may be transferred quite definitely to the Active Class and may remain there until he takes his discharge or until such time as for one reason or another he may have to be moved back to the Reserve Class. I have already stated the reasons and I again recommend my amendment to the House.

**Mr. G. R. F. Tottenham:** Sir, I accept the amendment.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That for part (ii) of clause 7 (c) of the Bill, the following be substituted:

'(ii) for the words 'for any training year in any other Class for which more periodical training is specified in Schedule I' the words 'in the Active Class' shall be substituted; and '."

The motion was adopted.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty):  
The question is:

"That clause 7, as amended, stand part of the Bill."

The motion was adopted.

Clause 7, as amended, was added to the Bill.

Clauses 8 to 13 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**Mr. G. R. F. Tottenham:** Sir, I move that the Bill, as amended, be passed.

The motion was adopted.

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### THE INDIAN MERCHANT SHIPPING (AMENDMENT) BILL.

**Mr. G. S. Bajpai** (Secretary, Department of Education, Health and Lands): Sir, I beg to move:

"That the Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes, as reported by the Select Committee, be taken into consideration."

The original Bill, the House will remember, was introduced in April, 1932, and the report of the Select Committee was presented by me to the House, I think, on the 14th November, 1932; so that both the original proposals of Government and the amendments that have been made since have been before Honourable Members for a considerable period. If I attempt a sort of expository trespass upon the time of the House at all, it is because time is apt to dim recollection and also because the very voluminous minutes of dissent which have been appended to the report of the Select Committee render it necessary that the point of view of the majority shall be explained to the House. The Bill, Sir, deals in the main with three points; the first is the feeding of pilgrims travelling by the lowest class, secondly, the amount of accommodation, the superficial space that will be provided for each pilgrim travelling by that class, and thirdly, the making of arrangements which would ensure that no pilgrims, or very few pilgrims, are left stranded at Jeddah at the end of the Haj for want of funds. The Select Committee considered the proposals embodied in the original Bill in regard to these three points with one objective in view, namely, to ensure the requisite improvements in the existing arrangements with the minimum of economy from the point of view of the pilgrim and the maximum of improvement in regard to safety and to convenience. And what I would like the House to bear in mind, Sir, is that the amendments which have been made by the Select Committee have been made in order to achieve this objective. And I would like the House to apply this test both to the provisions as amended by the Select Committee and also to the proposals which those who were responsible for the minutes of dissent, intend to put forward later on.

Now, Sir, I shall deal first of all with the question of the food of pilgrims on board the ship. At the present moment there is no such thing as provision by the ship, in return for a price included in the fare, of the food of pilgrims. The majority of pilgrims make their own arrangements. The Haj Committee went into this question very carefully and they came to the conclusion that this arrangement needed altering. The reasons for that are set out in paragraph 154 of the Report from which I shall read a brief extract:

"There is no doubt whatever that the practice of allowing pilgrims to bring and cook their own food on board the pilgrim ship is conducive to extreme filthiness. The whole of the pilgrims' quarters is littered with foodstuffs, including vegetables in a more or less advanced state of putridity, and a mass of cooking utensils which, as no hot water is available, are invariably in a greasy and mal-odorous condition. The danger of fire breaking out on the ship has also to be considered, as with the multiplicity of small wood fires and the Primus stoves all over the upper deck the former giving sparks and the latter occasionally bursting, it is to be wondered why more accidents do not occur."

That, Sir, is the state of affairs prevailing on the ship, and the members of the Haj Committee unanimously recommended that:

"The advantages which would accrue to the pilgrims as a whole by relieving them of the necessity for doing their own cooking on board the ship would be so great, that the present system must be altered at the earliest possible moment."

That is, Sir, what the Bill, as amended by the Select Committee, seeks to achieve. Honourable Members, who have dissented from the majority Report on this point, urge certain objections. These objections may be conveniently grouped into two classes: those that proceed from the point of view of the pilgrims and those that proceed from the point of view of the shipping company. Now, as regards the first, it is urged that the pilgrims proceeding from India represent a variety of races. They have different tastes in the matter of food, and it would be a hardship to inflict upon them a uniform menu or a uniform diet. The second objection which is urged is that if you do inflict a uniform menu upon them, then there is likelihood of trouble, because tempers will run high, if everybody does not get the kind of food he wants. The third objection that is raised to our proposal is that at the present moment a number of wealthy pilgrims provide for the food of their poorer co-religionists, and this practice will be discontinued if, instead of providing them with food, they have to pay for the charge for food which is to be included in the price of the ticket, and the fourth objection which has been taken is that some of these pilgrims, a good many of them perhaps, fall sea-sick, and it is not fair that in addition to suffering from sea-sickness they should also suffer in their pocket to the extent that they will not be able to use the food for which they have already paid. Then, Sir, a fifth argument has been raised against this, *viz.*, that cooking is a recreation, a distraction, and we should be depriving them of this distraction if we force upon them a uniform diet under the arrangements proposed. Well, Sir, I submit that the Haj Committee, with one exception, consisted of Muhammadan gentlemen. Four of them had already performed the Haj themselves. They must have considered every one of these objections. There is nothing new in them. They were fully familiar with all the practices and all the conditions. Nevertheless they made a recommendation which we are now putting forward for the acceptance of the House. And it is not, Sir, that we are trying to introduce into our law something which is without precedent or parallel elsewhere. The position is that pilgrims from the Straits Settlements,

[Mr. G. S. Bajpai.]

pilgrims from Java, and pilgrims from Egypt are subjected to this régime, and what we are trying to do is to assimilate our own legal provisions in this matter to those which are in force in those countries. Our conclusion is that on the balance the argument is in favour of accepting the recommendations of the Haj Inquiry Committee, recommendations which are embodied in the Bill as now put forward before the House, rather than let the present somewhat chaotic and unsatisfactory conditions to continue.

Now, I shall deal with the second class of objection, the objection which, as I said before, is urged by the representatives of the shipping company. What they urge is that the structural alterations which will have to be made in the ships are impracticable, if not altogether impossible, and further that it would be impossible to make arrangements to carry the requisite supplies. This position was put up by the representatives of the only shipping company, which is now in the traffic, namely, Turner Morrison and Company, before the Select Committee on this Bill, first in Simla, and, then, subsequently, to Government in Delhi last November, and the conclusion to which we came was this—no reform, no innovation of any kind which requires any alteration of existing arrangements is readily acquiesced in. We are asking the pilgrim to pass from the stage when he cooks for himself to the stage when he would have to take food which is supplied to him by the shipping company. It seems only equitable that the shipping company should be called upon to join with the pilgrim in carrying out any innovation which we consider as desirable in the interests of the pilgrims. I would, further, say, Sir, that inasmuch as the safety of the pilgrim is bound up with the safety of the ship, the change that we propose will also be to the advantage of the shipping company if they take a long view of the matter. That, Sir, disposes of what I have to say on the subject of the change proposed in regard to feeding arrangements.

The second point touched upon in the Bill relates, as I said, to the space that is to be provided for the passengers travelling by the lowest class. The Haj Committee recommended that the allowance which is now fixed at 16 sq. ft. should, instead of being prescribed by rules made under the Indian Merchant Shipping Act, be prescribed by the law itself and that is what clause 6 of the Bill purports to do.

Another suggestion, Sir, which the Select Committee considered and upon which some dissentient members are very insistent is the suggestion to increase this allowance from 16 sq. ft. to 18 sq. ft. The Select Committee in Simla considered this matter very carefully. They said: Undoubtedly, if there is an increase of space, it will redound to the comfort of the pilgrim, but we must make sure that the expenditure involved does not considerably enhance the cost of the Haj. In order to clear up this point, we made enquiries and the result was this. We found that for what can only be described as a lateral extension of, say, four inches in length or four inches in breadth in the space provided for the pilgrim, we shall be increasing the cost of the fare by  $12\frac{1}{2}$  per cent, that is Rs. 20 for the return voyage, if a person takes a return ticket or something like Rs. 27, if a person takes a single ticket. In other words, for the doubtful advantage of having four extra inches, a person will have to pay at the rate of Rs. 5 or Rs. 7 per inch. That was distinctly against our objective

which was to secure improvements at the minimum increase of cost and, therefore, the Committee decided against increasing this allowance of 16 sq. ft. which is the allowance today. And, in that connection, I would like to point out, that in this respect the pilgrim is really at an advantage compared with an ordinary native passenger travelling in a native passenger ship, because the space allowance for him is 16 sq. ft. and not 18 sq. ft.

Now, we come to the third point, namely, insurance against the risk of pilgrims being stranded in the Hedjaz for want of funds. The Haj Committee unanimously endorsed this principle and have made two recommendations: one was that the existing provision as regards making exemptions from the necessity of having to make a deposit or buy a return ticket should be completely done away with, that there should be no alternative prescribed at all; and the second was that we should abolish return tickets and only retain deposits. As regards the first point, after careful consideration, we came to the conclusion that it was not necessary to do away with the choice which the Act allows to the pilgrim who wishes to make a declaration, but to give more discretion to the officer before whom the declaration is made, so as to make sure that exemptions from the ordinary requirements of the law are made in cases which are really established as necessary for the grant of help that is wanted; and as regards deposits being retained to the exclusion of return tickets, we felt that the onus of proving that advantage which would accrue to the pilgrim was upon those who wanted this change. And, frankly, no satisfactory evidence that any advantage would accrue to the pilgrim by this change has been placed before us. The present provision of the law which requires a pilgrim either to buy a return ticket or to make a deposit was made in 1925, and the Select Committee of this House which considered the Bill then said that the pilgrim should have a choice between these two alternatives. Those who say that this choice should be limited by taking away the option to buy a return ticket, it is for them to establish either that shipping would be made more plentifully available or more cheaply available, or more promptly available than at present. The fact of the matter is that the return ticket is cheaper than the single ticket, and the Haj Committee, in para. 98 (page 57) of their report, themselves recognised that, whether it was for the outward journey or for the inward journey, the great majority of the passengers will have to rely upon the regular service and the regular boats in order to be brought back to India. There is no inducement to a shipping company to offer to bring somebody back from the Hedjaz for a low sum of money if the demand for shipping really is excessive, if it is in excess of the supply. Therefore, there is no justification for the suggestion that by introducing this change we shall be making the fare cheaper, and the cost of the Haj cheaper to the pilgrim, because there is only one shipping company which is in this traffic, and that shipping company is in the traffic and the others have been eliminated by reason of competition which has redounded to the advantage of the pilgrim because he has to pay a lower fare than he used to pay in the past. So, unless it can be shown that competitive shipping is forthcoming in sufficient quantity really to make competition for the purpose of lowering of fares effective, it cannot be said that those who want to change have proved their case; and, on the other hand, there is this risk, that if you abolish return tickets and leave shipping companies to cater for the few who buy a ticket on the way out and then buy a ticket for the return journey, there will be no obligation



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on any shipping company to provide ships for the return journey; and, therefore, instead of providing against any people being stranded in Jeddah for want of shipping, you would be creating a state of affairs when the shipping may not be forthcoming and the pilgrims may have to wait indefinitely because the ship is not there: lucrative traffic might offer elsewhere and ships may be diverted and they may not be available in order to bring the pilgrims back in time. Therefore, the majority of the Select Committee came to the conclusion that there was no justification for altering the present arrangement under which the pilgrim has a choice between making a deposit and buying a return ticket. If the deposit is really more advantageous to the pilgrim, after all he is not limited to buying a return ticket; he is not compelled to buy a return ticket. The option between the two is there; and it is open to the Haj Committees which we have set up in the ports to give him advice, to tell him that the other thing is to his advantage and then leave it to him to decide whether he will buy a return ticket or whether he will make a deposit. That is all that I have to say at this stage in explanation of the three main points which are dealt with in the Bill. I would only add one sentence: the House, by its overwhelming suffrage, passed the Bill which we considered last September for the setting up of Haj Committees: that was considered to be the first instalment of reform. This, Sir, is the second instalment of reform, and I hope that the same measure of support, abundant and ungrudging, will be forthcoming for this measure.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Motion moved:

"That the Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes, as reported by the Select Committee, be taken into consideration."

**Khan Bahadur Haji Wajihuddin** (Cities of the United Provinces: Muhammadan Urban): Sir, there are two amendments standing in my name—No. 2 and No. 4. I wish to move No. 4. I move:

"That the Indian Merchant Shipping (Amendment) Bill, 1932, as reported by the Select Committee, be recommitted to the Select Committee for further consideration."

The reason for my adopting this course is quite simple and I frankly say that the form in which the Bill has emerged from Select Committee is in my opinion unacceptable to the Muslims of India generally, and the religious bodies and the orthodox class particularly, because it provides no facilities and comforts to the intending pilgrims, as were demanded by my Honourable friend, Seth Haji Abdoola Haroon, in his Resolution in the year 1928, for which the Haj Enquiry Committee was appointed. Though this Bill is said to be based on the report of the Haj Enquiry Committee, yet to a certain extent it goes quite contrary to the recommendations of that Committee, by disregarding the question of providing comforts and facilities to the intending pilgrims. The Bill further imposes certain restrictions and hardships on the Muslims of India. It is, therefore, bound to create unavoidable difficulties in the way of pilgrims to the Holy Land. There is hardly anything material in the Bill in accordance with the recommendations of the Haj Inquiry Committee excepting that of making food compulsory, but, on the contrary,

the most important and unanimous recommendation of the Haj Inquiry Committee for the abolition of the return ticket is not carried out and the much abused system of return ticket is perpetuated without paying the least attention to the disadvantages thereof, affecting most adversely the pilgrims who are as a class very poor, illiterate and ignorant. I am extremely sorry to declare on the floor of this House, Sir, that the Government want to get through this Bill without abolishing the system of the return ticket in the face of opposition from all the Non-Official Members and public bodies and I do say that the Government Member, my Honourable friend, Mr. Bajpai, cannot point out any public body or any non-official person, having at heart the welfare of pilgrims, to support their omission to abolish return tickets. Sir, when such is the case, naturally the question arises why the Government should hasten the passage of the Bill which in this respect is quite contrary to the recommendation of the Enquiry Committee. With your kind permission, Sir, I will quote a few instances of vital importance for the consideration of this Honourable House.

So far as the question of accommodation for deck passengers is concerned, Sir, the Bill provides no facility to the pilgrims. It is a long-standing grievance of the pilgrims that the space of 16 superficial feet provided to each of them is quite inadequate and should be slightly increased. But I regret very much, no improvement has been made in the Bill in this respect too. I may remind some of my Honourable colleagues here, who were on the Haj Inquiry Committee and who inspected one of the pilgrim ships, the S.S. "Dara" of the Mogul line, in July, 1929, in the Calcutta docks, with the Surveyor, Commander Page, and, on comparing the numbers shown in the pilgrims certificate with the actual space available in each hold, they were of opinion that the number of pilgrims shown could not be conveniently accommodated in those holds. In spite of that, they have not recommended the slightest increase in space of 16 superficial feet hitherto allowed since a very long time. They have paid no attention to remove this inconvenience simply because of their apprehension of an increase in the Steamer fare which, I am sure, is bound to decrease if Deposit System is made compulsory and return ticket system is abolished. The return ticket system is no doubt responsible for giving monopoly to one big Shipping Co. and depriving all other small Companies from coming into the field to compete the big concern. I am sure, that has been the only cause of high fares during the last six or seven years.

The Bill does not provide the concession of half fare for children under 12 years and no fare for those under three years as is the general practice everywhere.

I have carefully considered the point and have come to the conclusion that a space of sixteen feet is really inadequate and it is only fair to demand an increase in space from 16 to at least 18 feet as recommended in the resolution passed on the 31st July, 1932, by the Port Haj Committee of Karachi, and, according to the oral evidence given before the Select Committee at Simla by the Honorary Secretary, Delhi Muslim Association. Sir, this is an important matter and I think we should increase the space from 16 to 18 feet and provide concession for children; but, Sir, if this is not adopted, I think the Bill is in no way beneficial to the pilgrims and is unacceptable. The return ticket system,

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which is responsible for many a hardship to the pilgrims, has been allowed to remain on the Statute in spite of the fact that the Haj Inquiry Committee in its report has unanimously recommended the introduction of a system of compulsory deposits for the pilgrims and the abolition of the return ticket system. The recommendation of the Haj Inquiry Committee has full support of all the three Port Haj Committees at Bombay, Karachi and Calcutta, as well as of His Majesty's Minister at Jeddah. The Government of Bengal also are definitely in favour of making the deposit system compulsory and prohibiting the issue of return tickets. With your kind permission, Sir, I will explain briefly the arguments in favour of compulsory deposit system which I do trust will convince this Honourable House that it is also one of the most important matters to be considered in this connection.

Firstly, a depositor can return to India by any boat of any line. A return ticket holder has to wait for a ship of the line by which he originally sailed, unless 25 days have elapsed since the date on which he presented his ticket to the British Legation at Jeddah notifying his desire to embark for the return journey. He cannot return by the earliest available ship if it belongs to another line. Moreover, the Jeddah Agents of the Shipping Companies occasionally book depositors in preference to their own return ticket holders in order to increase their earnings by carrying as many depositors as possible. Return ticket holders are left behind waiting for a later boat provided they are not likely to be detained longer than 25 days at Jeddah. If the deposit system is made compulsory and there are no return ticket holders, the British Legation at Jeddah could arrange to despatch the pilgrims in the order in which they arrive there except when a particular pilgrim desires to return by a particular boat or line.

Secondly, the compensation at the rate of one rupee per day, which is payable to a return ticket holder under section 209A (1) of the Indian Merchant Shipping Act for the period of his detention at Jeddah beyond 25 days, is of little value to him, and, in actual practice, it has not been possible to arrange for the payment of the compensation to certain pilgrims.

Thirdly, a depositor who has lost his deposit-paid pass may be provided by the Indian Pilgrimage Officer, Jeddah, with an emergency pass and thus enabled to return to India. No such help is available when a pilgrim has lost his return coupon.

Fourthly, refunds of unutilised deposit money, which is in the custody of Government, are more easily obtainable than refunds of the value of unutilised return coupons, which is in the hands of the Shipping Companies.

Mr. President, it is now quite evident, and hardly needs any effort to realise that the advantages of deposit system are comparatively far more weighty in the interest of the pilgrim than those of return tickets. The return ticket system makes pilgrims subservient to the whims and caprices of the shipping companies so much so that they have no alternative to book their return passage with any other shipping company than the particular line for which they hold their return tickets. The deposit system, on the other hand, affords pilgrims the full liberty of their

choice, and, in case of necessity enable them to arrange their return passage by any available ship irrespective of particular line. The former makes the pilgrims helpless in the hands of the shipping companies, while the latter demands of the companies that they should endeavour, in their own interest, to enlist the sympathy and consideration of the pilgrims. Moreover, this Act cannot but defeat its own purpose, inasmuch as the deposit system cannot become popular among the pilgrims in the presence of the return ticket system. The canvassing agents of the shipping companies concerned will spare no pains to bring the pilgrims unto their fold, while the deposit system is sure to die a natural death in the absence of a similar force to propagate its cause among the pilgrims. Sir, the records of the past few years will amply demonstrate the truth of it. Last year, among 5,352 Indian pilgrims, who sailed from the Bombay port, there was not a single case of deposit, while of 3,781 from the Karachi port, only 25 made deposits and 3,751 sailed from return tickets. In the years 1928, 1929, 1930 and 1931, the Indian pilgrims, who sailed direct from the Calcutta port, were 380, 1,009, 557 and 370, of whom 333, 238, 472, and 14 pilgrims, respectively, deposited the necessary amount with the Government of Bengal, and 2, 728, 19 and 292 were return ticket holders. In 1932, the number of Indian pilgrims who left from that port was 384, but there were only three among them who made deposits and 338 held return tickets. It would thus appear that the deposit system is gradually and slowly dying out. It cannot be popular, under any circumstances, in the presence of the alternative course in favour of the shipping companies.

Mr. President, another factor, no less important, to ensure the welfare of Indian pilgrims, is to check the capricious and unwarranted move of the shipping companies to employ their ships, at discretion, for the transport of pilgrims other than those whom they would actually bring to Jeddah. In the existing circumstances, the shipping companies apprehend no legal consequence in this respect, due to the time limit of 25 days (now proposed in the Bill to be 15 days) for the shipping companies to repatriate their pilgrims without any penalty.

Sir, the experience of last year has adequately demonstrated the extent of irresponsibility the shipping companies might indulge in. In view of the loopholes afforded by this Act, I understand from a reliable friend of mine, that Messrs. Turner Morrison, who are now the only shipping Company engaged in Indian pilgrim traffic, had engaged last year their fleet of six ships, which in 13 voyages carried about 13,000 pilgrims from Indian ports. But the most absurd part of it is that they kept in the Jeddah harbour only four of their ships, at the first instance, for the return journey of these pilgrims, which would obviously appear to be quite inadequate arrangement, specially in view of the fact that the pilgrims, who generally come to the Hedjaz in six months, are in the habit of rushing in thousands soon after the Haj for immediate repatriation.

Sir, the most objectionable feature of it was the unjustifiable motive of the said company to employ two of their ships, out of these four, for the transport of Egyptian and other pilgrims, at the time when more than 7,000 pilgrims, holding return tickets, were waiting at Jeddah for repatriation. Although, due to other circumstances, the company ultimately gave up their project, yet if it had taken effect, it would have caused great inconvenience to Indian pilgrims, and this cannot but be resented. It appears quite obvious that there is absolute necessity for

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legislation in this respect, with a view to putting a stop to the undue advantage taken by the companies of the prescribed period. The only remedy to check in future the repetition of such irregularities, on the part of the companies, is to legislate that the adequate number of ships, which the companies would employ for the transport of pilgrims from India to Hedjaz, should be kept in the Jeddah harbour for the returning pilgrims, under the direct control of the Indian Vice-Consul, who should be legally authorised to exercise full control over the affairs of these ships in the interest of the pilgrims. The company should have no power to use their discretion in respect of these ships, till six weeks from the date of actual Haj, as it has proved in the past quite detrimental to the cause of pilgrims.

Another instance of the shipping agents' deliberate disregard for the comfort of the pilgrims is best illustrated in connection with the sailing of S.S. "Rizwani" from Jedda on the 3rd May last. There were many pilgrims, holding first and second class return tickets, at Medina, who were anxious to sail by this ship, and were ready to leave Medina for Jedda. I have reason to believe that the attention of the local shipping agents at Jedda was invited to this fact, pointing out to them that due consideration should be paid to the deplorable condition of the road between Medina and Jedda, as well as that of the motor cars and lorries transporting these pilgrims. Although there was apparently no urgency in the immediate departure of the ship, still the shipping agents did not delay her even for a day more, and directed her sailing. As a result, the ship left with 13 first and 18 second class unoccupied berths. Consequently, Sir, the pilgrims, who reached Jedda later on, and might have sailed by S.S. "Rizwani" but for the unjustifiable attitude of the agents, were held up, and their number was subsequently multiplied with other new arrivals. I hope the House will agree with me that this naturally caused an unusual strain on the available first and second class accommodation of the next ship, and consequently 27 first class pilgrims had to take upon themselves the hardships of travelling by the "deck" of a crowded pilgrim ship. I think the only way to mitigate the sufferings of the pilgrims in this respect is to abolish the return ticket system and to place the pilgrim ships under the full control of the Indian Vice-Consul or Pilgrimage Officer at Jeddah for the period just mentioned by me.

Sir, there have been many instances where return ticket holders have been detained at Jeddah and have suffered bodily and monetarily, while under the compulsory deposit system, no pilgrim has ever been detained. I may remind my honourable friend that the British Consul at Jeddah rightly stated before the Haj Inquiry Committee in this respect that:

"Ships will be waiting for pilgrims instead of pilgrims waiting for ships."

The shipping companies usually do not give refund of difference between the higher class fares and the deck fares, which means an unjustifiable loss to pilgrims under the return ticket system which should now be stopped altogether.

Sir, the sole object of providing for the return passage was to save the Government from the expenditure of repatriating destitute pilgrims. This object can be safely achieved if deposits are made compulsory to the exclusion of the return tickets. When the object can thus be served, and

when there are admittedly several abuses and disadvantages of the return ticket system, may I ask, Sir, why should not the return tickets be stopped? No doubt it was argued that the Government cannot deprive the shipping companies of their right to issue return tickets. But, I may say, Sir, it can also be argued with greater force that the safeguard of the rights of the general public, especially Indian pilgrims, to Hedjaz has a prior claim on the Government to travel on single tickets which should on no account be snatched away. Since some pilgrims sailed with short funds or, owing to their wrong estimate of Haj expenditure, they became destitute in the Hedjaz and were repatriated by Government or public subscription, it was found necessary to make some provision for their return, and deposits can adequately serve that purpose. As regards the right of shipping companies to issue return tickets, the events in the past, as I have just stated, show that they have abused this right and it is now the duty of the Government and this House to protect the pilgrims from the hardships of the return ticket system. Sir, I find no justification on the part of Government to provide in the Bill the option of the return ticket system after having discussed the problem in detail in the meeting of the Standing Haj Committee and finding that out of 18 members present there, on the 12th September, 1931, 13 were in favour of abolition of the return ticket system and these 13 include five Government Officials and eight Non-Officials while those who opposed this were four Officials and one representative of the shipping concern. It is now quite clear that all the non-official representatives are unanimous in this question. Besides this, Government have got the unanimous recommendation of the Haj Inquiry Committee to abolish the return ticket system and to adopt compulsory deposit system alone.

Mr. President, may I ask the Honourable Member, in charge the Bill, as to how far he is justified in drafting this measure in face of so much opposition? What was the use of appointing the Inquiry Committee and spending several lakhs of rupees when the Government do not see their way to accept its recommendations? Why the Standing Committee was formed when its recommendations were absolutely thrown out? Sir, I am dead against the return ticket system, because the deposit system is not likely to become popular among pilgrims as long as the return ticket system is in force and if both the systems are maintained as provided in the Bill shipping companies will naturally push on the return ticket system for their own benefit and the deposit system will before long be defunct.

I now come to another important matter. With regard to "Cooked Food" I may say that certain clauses of the Bill relating to cooked food on contract basis during the voyage on board the ship, in my opinion entail undue hardship to Indian pilgrims to Hedjaz. I, therefore, do not agree with the majority of members of the Select Committee in adopting such a drastic measure.

Mr. President, I find no justification in introducing this system which is full of great many difficulties. It involves extra expense to the poor Indians without any guarantee whatsoever as to what extent it will be beneficial to the pilgrims, and, moreover, I have great doubts as to whether it will ultimately prove successful. I consider that at the present time of world-wide depression and reduced purchasing power of poor Muslims of India, especially those who go to pilgrimage, not on a pleasure trip, but to fulfil their religious duty, it is absolutely necessary that expenditure should in no way be increased, but, on the other hand,

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reduced to a minimum. It is an admitted fact that shipping companies with highly paid staff cannot supply "cooked food" to the satisfaction of so many pilgrims of different tastes and habits as cheaply as the pilgrims themselves can provide by cooking their own food. Sir, the procedure of distribution of so many varieties of cooked food twice or thrice a day to an average of 1,500 pilgrims on each boardship is not an easy task. I assure you, Sir, that even now there arise quarrels over getting drinking water which is to be had of one quality and quantity for every pilgrim and it can, therefore, be imagined that more quarrels are likely to arise in the process of distribution of food. Taking into consideration the very low economic condition of the Indian pilgrims generally, it is almost certain that in about 90 per cent. cases, if not more, even a very small increase of a rupee in their existing expenses will be a heavy burden on them.

Sir, I may also consider that a large number of pilgrims, who are not accustomed to sea voyage, suffer from sea-sickness, when they will not be able to take the advantage of cooked food for which they have already paid, there is no provision in such cases for the refund of price of unused meal and consequently I cannot be overgenerous to the Shipping Companies at the expense of the poor.

Sir, another factor which should be borne in mind is that quite a large number of poor pilgrims undertake the voyage after purchasing only return tickets and for their other requirements they render service to their fellow pilgrims who are in a prosperous condition and who are also in need of such services. In return for such services, food and other necessary amenities of life are provided to them by such well-to-do pilgrims. By introducing this measure, we will be depriving those pilgrims of these advantages and will be forcing them to spend more money. It is possible that objections may be raised in certain quarters that such arrangements among the pilgrims should not be encouraged, but I cannot endorse this idea as I am strongly of opinion that the religious susceptibilities of every sect should not be ignored and we should not create any difficulties in their way by passing such drastic measures.

Sir, under the circumstances, I suggest that reform be introduced by the free-will of those concerned and no compulsion of any kind be allowed to be put upon the pilgrims. In support of my humble views on the question, I may quote here what the Shipping Companies say. Messrs. Turner, Morrison and Company oppose the measure. Their remarks are as follows:

"This important question has been closely studied. The supply of food by the ship would present a great many difficulties, one of the principal being the large number of different denominations which travel from India, each of whom habitually use a different kind of food. A second difficulty would be its distribution amongst such large numbers, but the difficulty which, we think, would prove insuperable is the fact that the majority of pilgrims are themselves opposed to the idea. It is to be remarked that of the complaints that have been received from Pilgrim vessels during late years but which are now becoming infrequent, none have had provision of food as their subject and, when the matter has been commented upon, it has been by first class passengers or by those who viewed the subject from an educated point of view. In theory it would undoubtedly be a good thing to free the allotted space of a large quantity of food-stuffs and cooking utensils; but this is outweighed by the fact that the majority of pilgrims do not want it. They are far more contented with their own food cooked in their own way, and far from regarding it as a hardship, many of them pointed out that they had nothing else to do and that

cooking their food helped them to pass away the time. For the small number who do not wish to do their own cooking, there is the Pilgrim Food Supply Company, who will ration them at a certain fixed rate."

Sir, I think in this connection I must also quote the opinion of Steam Ship Companies which I will explain briefly here. Mr. Khaleeli of the Nemazee Line is also strongly opposed to the measure. His remarks are:

"I am opposed to the provision of cooked food by the ship. Amongst the pilgrims there are different classes and nationalities whose diets are different and it is therefore very difficult to cater to their needs. In our vessels Restaurants are run, where one can obtain ready meals. Those who do not wish to make their own cooking on board can make use of the Restaurant."

The Bombay and Bengal Chambers of Commerce also oppose the recommendation and several other important bodies, such as the Karachi Chamber of Commerce and the Karachi Port Trust, have pointed out serious difficulties in giving effect to it. The principal opposition comes, however, from the Government of Bombay, whose remarks are as follows:

"The Government of Bombay consider that it would be most difficult, if not impossible, to put the recommendations made in these sub-paragraphs into practice, and that the best course would be to allow pilgrims to make their own arrangements for food by bringing their own supplies on board or purchasing them on board. It does not appear to the Government of Bombay that any useful purpose would be served by amending the Indian Merchant Shipping Act to provide for the supply of cooked food by Shipping Companies until it is possible to secure the object in view. The various classes of pilgrims prefer to have their own food cooked in their own way and to forbid private cooking would cause hardship and rouse discontent."

I, therefore, say, Sir, that expert opinions must carry great weight, and there are difficulties undoubtedly in the way of adopting the measures.

The Bombay Haj Committee are of opinion that compulsory feeding, if introduced, all of a sudden, would cause considerable heart-burning among the pilgrims. Sir, these are the few instances of hardships which the Bill imposes upon pilgrims without providing facilities of vital importance for which the Muslims of India were anxiously waiting for a very long time.

Sir, in my concluding remarks, let me say quite frankly that the attitude adopted in rushing the Bill through without paying the least attention to the fact that the Bill without providing comforts and facilities to them imposes undue hardships and restrictions to the pilgrims and I take this opportunity to warn the House in open words that so far as the Muslims in general and pilgrims in particular are concerned, this Bill is wholly unacceptable to them. With your kind permission, Sir, I may remind my Honourable colleagues in the Select Committee that during the consideration of controversial clauses of the Bill in June last at Simla, it was suggested by my Honourable friend, Maulana Muhammad Shafee Daoodi, that with a view to solving the difficulty confronting the members of the Select Committee with regard to the questions of "accommodation", "cooked" or "uncooked" food and "Deposit" or "Return ticket", the Government of India should depute on their behalf one or two of the members of the Select Committee to discuss these questions personally with the Directors of various shipping companies at Bombay. The result of such negotiations to be brought to the notice of the Select Committee when it meets next at Delhi, which no doubt was approved by all the officials and non-officials present in the meeting and I may say, Sir, that



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for this and other reasons it was decided to have further consideration of the Bill postponed. Pardon me, Sir, for saying that the Government not only totally ignored the wishes of the elected representatives, but also failed to discharge their duty in this direction. The intention of such a conference was to provide facilities and conveniences for the pilgrims after discussion with various bodies at the port and not to confine our activities to only one concern which already holds the monopoly of Haj traffic for the last several years; but I am sorry the Government decided only to obtain opinion from one or two firms. Sir, I have reason to believe that the importance of such a conference between the members of the Select Committee and the Directors of various shipping companies was brought to notice again a few months after, but I am extremely sorry to say that it remains a dead letter.

Sir, I think I shall be failing in my duty if I do not point out to the House that when the Simla Session of the Assembly was sitting, a representation signed by a dozen members of the Select Committee was submitted to the Honourable Chowdhry Zufrullah Khan, then Member in charge of the Department, with the request that ample time could kindly be allotted to consider the important clauses of the Bill and it suggested the convening of the meeting of the Select Committee at least 10 days before the Legislative Assembly began its sitting at New Delhi. Is it not surprising, Sir, that this small request of almost all the members of the Select Committee was not acceded to and consequently the date and time for the Select Committee to dispose of the two pending Bills was fixed for Friday, the 4th November, at 2-30 P.M., i.e., only two hours time for the disposal of two Bills. Saturday and Sunday being holidays, it was quite in order for the Chairman of the Select Committee, with a view to attending the meeting of the Assembly from Monday, the 7th November, not to allow further postponement suggested by my esteemed friend, the Honourable Mian Sir Fazl-i-Husain, with the result that the report on the Bill was passed in an hour's short time and presented to the House with dissentient notes from five elected members of the Committee representing the United Provinces, Bihar and Orissa, Bengal, and Madras Provinces.

Sir, there was every hope that the negotiations with shipping companies would have been proved fruitful and we would have been in a better position to perform our duty in this connection. I, therefore, say, Sir, that this Bill is coming up for consideration not only without the consent of the public, and without the consent of shipping companies, but certain clauses of the Bill are quite contrary to the recommendations of the Inquiry Committee, while, I think, for the goodwill of both the people and the Government it is absolutely necessary that the Bill be recommitted to Select Committee for further consideration. With these remarks, Sir, I move my amendment.

**Mr. Muhammad Anwar-ul-Azim** (Chittagong Division: Muhammadan Rural): Mr. President, as a non-Haji Member of this House, I think it will be impertinent on my part to say a few words at the consideration stage of this Bill. It is certainly a very ticklish subject so far as certain sections of the Indian public are concerned and, I think, if I had any voice in advising the Government of India in moulding their policy, I should say that they should so conform themselves to popular opinion that no odium of any kind which might be hurled on them from any side of the House

would be justified. But I am not here to supply wisdom to the Government of India. It is far from me to say so. It seems to me, Mr. President, that this matter of Haj traffic has caught fire even in the remotest village of Eastern Bengal, the place I come from. The interested people have made so much of this that I do not know if everything has come to the knowledge of Government. If anybody comes forward at this stage of the development of the public mind in that way and suggests even a rational and logical remedy in that line, he will be pooh-poohed and hooted down. But, Mr. President, I am certain that that could not possibly deter me of all other people from calling a spade a spade.

I had the privilege of listening to the grand speech of the Haji Sahib in my front and also the nice report of the Select Committee. It seems, Sir, that the Select Committee is very much divided on vital and important facts. As was disclosed in the last part of the Haji Sahib's speech, perhaps the non-officials on that Committee and also the non-officials on the Standing Haj Committee of the Government of India wanted that certain kind of policy would be the right thing for the Government of India to follow and that would solve the problem. If Government were not obdurate, I daresay, they would have tried that with a certain amount of advantage. But, unfortunately, as an elected Muslim Member of this House, it will be very difficult for me to go against the wishes of my friends, the Haji elements in this House. I have listened with very great interest to the nice speech of the Educational Secretary which was perhaps very logical. But, I remember, that a certain great man who was at one time the occupant of the Treasury Benches in this House once said: "If you want to live in water, you must be in a position to make friends with the crocodile." That being the case, I think Government would have been very well advised to take to this dictum of the late Sir Alexander Muddiman and not to ride roughshod over the wishes of the elected Members of the Select Committee. If Government are so much solicitous with regard to finding facilities for the Haj pilgrims from various parts of India, then I do not know if there is any co-ordination of purpose amongst all the authorities concerned here. I know and it has been brought to my notice very positively by certain friends in Calcutta that even the Government of Bengal have issued certain directions positively prohibiting people from going to Hedjaz from Bombay. We were also inundated by pamphlets issued by the Central Bureau here and, if anybody had time to go through the different advices and opinions expressed with regard to various things, one would have surely and immediately come to the conclusion that perhaps there is something wrong somewhere, perhaps there is a run for popularity at some place and perhaps that is the reason why the Haj matter has been so badly muddled. There is certainly a great force behind those people who say that it will not matter if the accommodation on board the steamers could be fixed at 18 sq. feet. Sir, it does not matter in the least whether the space is 16 sq. feet or 18 sq. feet. The root trouble is whether by this method, the method which has been indicated in the body of the Bill, or the methods which are being indicated by Government from time to time, Government are likely to give proper facilities to the teeming thousands of innocent villagers to pass through that procedure. What I feel is that these poor villagers will be absolutely exploited by the interested people. Rightly or wrongly—I am quite willing to give credit to one's opinion—the facts are there, that these people will be exploited and Government will be made responsible for it. So, if it is not too late,

[Mr. Muhammad Anwar-ul-Azim.]

why should not Government review the whole situation? If they feel that this measure is being brought for the good of the Muslim pilgrims, why should they not take counsel from those who say that they are the representatives of the class of people for whom Government are going to cater.

[At this stage Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) vacated the Chair which was occupied by Sir Abdur Rahim.]

One word, Mr. Chairman, with regard to the compulsory system of return tickets. I think there is a great force in the argument of Haji Sahib in my front when he says that if once you buy the return tickets from a particular source, to that extent they are fortified. The steamer companies feel that they have got these tickets and, of course, nobody in the world takes those tickets from them and the Haji is bound to travel by their line. But where is the trouble if we were to say in the body of this Bill that, instead of the return tickets, the deposit system should be introduced. Perhaps they feel that certain persons who go to the Haj may not have sufficient funds to come back and may, therefore, be repatriated at the expense of Government. But why should it not be so? What is the trouble? If Government find that certain of their subjects are stranded at certain places, I think it is their duty to see that no trouble befalls them while they are away from their homes. I think Government ought seriously to consider this position whether or not they should give the option of depositing the money and not make the buying of the return ticket compulsory.

**Mr. G. S. Bajpai:** Sir, I wish to inform my Honourable friend, if he will permit me, that return tickets are not compulsory.

**Mr. Muhammad Anwar-ul-Azim:** Secondly, one word with regard to the plan for having cooked food on board the steamer. If we had travelling on that steamer men like us on the floor of this House, it would not very much matter. But people have got their own notions and ideas about food, and I know people who, even if some kind of food is kept at a distance of a hundred yards, will not go near it. And these religiously minded people, who go to the Hedjaz to perform the pilgrimage, are not imbued with the kind of liberalism that we have, and if Government are going to help them to go to pilgrimage in the Hedjaz, why should they compel them to take the particular kind of food which the companies supply on board the steamer? Of course there is certainly a great amount of force in the argument of Haji Saheb when he says that perhaps lots of these people have not even seen the face of a town when they first come there on the ship. Immediately they get into the floating house, they easily fall victims to sea-sickness. Though I had no occasion to perform the Haj pilgrimage, I have had occasion to travel by steamer from place to place and my impression is that third class deck passengers, huddled as they are together, fall easy prey in the beginning of the voyage to sea-sickness. That being the case, as one rupee counts for economy in this country, I think it will not be right and fair on the part of Government to insist that the Hajis should make certain compulsory payments in that regard.

Sir, the Haji Sahib gave a nice warning to Government and said that we should not create trouble. I think there is very great force in that remark of his. He is a pious Haji gentleman; he has first-hand information about the Hedjaz and he has passed through the various stages of the journey. And when we have expert first-hand information from men of his type, I do not see why Government should discredit them and follow a kind of policy which they perhaps feel just, in their own way.

Lastly, Sir, I think I might suggest in my humble way one solution which will make the Bill acceptable at least to my part of the House. I think, if Government do not insist on giving cooked food on board the steamer, and if they can hit on some method by which the matter of buying return tickets will not be made compulsory and also in the matter of accommodation, it may not be difficult to have a speedy passage of this Bill through the various stages. With these few words, I commend the Bill for the consideration of the House.

**Kunwar Hajee Ismail Ali Khan** (Meerut Division: Muhammadan Rural): Sir, I rise to oppose the motion of my esteemed friend, Hajee Wajihuddin, for referring the Bill again to a Select Committee. I was also a member of the Select Committee and we spent more than a week on this Bill alone. We discussed it fully and I am sorry to observe that there was not a single new point which was raised by the Hajee Sahib in moving his motion. All those were old points which we had properly threshed out in the Select Committee. I do not say that whatever we have done in the Select Committee are quite correct and the House should adopt our points as they are, but it will be simply a waste of time and energy to discuss this Bill again in the Select Committee. I cannot understand this other thing about return tickets when it is fully explained by the Mover of this Bill that it is purely optional with the pilgrim, whether to buy the return ticket or make a "deposit". Why should we deprive the poor pilgrim of an advantage on the cheap return ticket? I know at present there is only one company which is monopolising the whole thing and there might be a difficulty with the other companies, but this is the general practice in every part of the world that we get return tickets on reduced rates. We have passed a measure in Simla about the Port Haj Committee and we are going to form Haj Committees in every part of the country. It will be the duty of these Haj Committees to make enough publicity for the public and show the advantages and disadvantages of the return tickets.

Then there is another matter about the cooked food or uncooked food. This matter was fully explained by the Mover of this Bill. I want to tell one thing more and it is this. I can say from my own experience that if you will go on board, you will find a hundred Primus stoves burning and this is most insanitary and dangerous for human lives on board. I cannot understand the idea that the public consent is not on this Bill. Some years ago, when this House formed the Haj Inquiry Committee, it made an extensive tour for about eight months throughout the country and examined about 400 witnesses, spent nearly two lakhs of rupees from the public fund and submitted a very detailed report. And that is the fruit of our own labours. On this one item, the return ticket and the deposit system, you will find that the recommendation of the Haj Inquiry Committee was not accepted by the Standing Haj Committee and, in the majority of the clauses of the Haj Bill, you will find that they are on the lines of the recommendations of the Haj Inquiry

[Kunwar Hajee Ismail Ali Khan.]

Committee. Mr. Chairman, you are fully aware that whatever we have done in the Select Committee, our first and chief idea was to give the full possible comfort to the pilgrims at the minimum cost and not to encourage beggary on the boat.

Then, about the negotiation of the shipping company, as my friend said. If I am not disclosing any secrets of the Select Committee, we discussed this point very fully and my friend volunteered to make the negotiation and, after giving the full consideration to those negotiations, the Select Committee have framed this Bill which is before us. If the House is serious to make any addition or alteration, it can be done on the floor of this House. With these few words, I oppose this motion to recommit the Bill to Select Committee and urge upon this House to accept the Bill as it has emerged from the Select Committee.

**Mr. G. Morgan** (Bengal European): Sir, in supporting this amendment of my friend, Khan Bahadur Wajihuddin, there is only one point on which I feel strongly and that is this compulsory feeding,—as all my friends on the Select Committee know—the difficulties to my mind are insurmountable, and in going through all the papers, all the letters, all the decisions, all the conclusions of all connected with putting up the case for compulsory feeding, I have not been able to find a definite and practical conclusion. My Honourable friend, Mr. Bajpai, quoted some words from the Report of the British Consul at Jeddah, which is in his report on the pilgrimage of 1926. But I would like to turn over the next page and see what he has said later on. The British Consul says:

“As against these advantages there is the difficulty of catering for different classes and nationalities of pilgrims. I am not sufficiently well-versed in the habits of the natives of the various provinces and countries from which pilgrims are drawn to offer a personal opinion on this point, though I am assured by those in a position to know—it does not say who they are—that the difficulty is not insurmountable.”

That is a very general statement to make and of course it is perfectly simple to make such a statement. But I think if he had experience of the practical working of a system of this kind, he would not have added these last words. Sir, I am glad that Mr. Bajpai has also mentioned the question of Java and other countries, because that is the real difficulty. If the pilgrims from India were the same as they are from the Netherlands East Indies, I do not think there would be any voice raised against the Government proposals. It is the insurmountable difficulties owing to the various classes of pilgrims that give rise to this objection. A short extract from the Haj Report which, as I shall quote later under paragraph 272, very hesitatingly suggested this compulsory food. They say:

“In our opinion there would be little difficulty in arranging for all pilgrims to feed from an eating-house on board, if the conditions of the Indian pilgrim traffic in any way resembled those of the Netherlands East Indies traffic. But that resemblance does not at present exist. Instead of being all of one class as the Javanese pilgrims are, the pilgrims from India are not only drawn, as has already been stated, from the different provinces of India itself, the inhabitants of which are not used to the same kind of food (mark these people) but also include Persians, Afghans, Bokharans, Tibetans, Chinese, Burmese and Malays, and, under existing conditions, any attempt to supply all the varieties of food to which each of these different classes is accustomed would be likely to prove a failure.”

Now, that is your Haj Committee Report. (*An Honourable Member*: "What page?") Page 93, paragraph 157. I will now turn to the conclusions, paragraph 272, which sums up all the paragraphs; this is as follows:

"Certain of the recommendations we have made, such as that for the provision of cooked rations to all pilgrims by the steamship companies, may appear to be somewhat revolutionary and against the weight of the evidence recorded but we believe that they will be welcomed by enlightened Muslim opinion and that, if accepted by Government, they will, even if at first distasteful to individuals, prove of lasting benefit to the Indian pilgrimage as a whole."

That, as I said, sounds very nice, and if possible, we would be very glad to see it. But there is no definite practical suggestion as how a statutory provision for compulsory feeding could be carried out on board the ship. From the volume of papers that I have received, there are menus from different parts of the country and I do not know how a shipping company could cater for the different classes of menus, how many types of cookery and stores involved in them it would be feasible to provide. The arguments that my Muhammadan friends put forward about the relief of monotony on the voyage and that sort of thing I leave to them. But I look at it from the point of view of the practical difficulties of the shipping companies and from the point of view of providing for the class of pilgrims which they have to carry. Therefore, Sir, although it is not my usual custom to support a reference back to a Select Committee, I feel that in order to raise my objection, I must support this motion.

**Sir Cowasji Jehangir** (Bombay City: Non-Muhammadan Urban): What is left of the Bill if you take that out?

**Mr. G. Morgan**: Plenty.

**Dr. Ziauddin Ahmad** (United Provinces Southern Divisions: Muhammadan Rural): This Bill, Sir, is preliminarily but erroneously called the Haj Bill. In fact it has nothing to do with the real Haj. Really the Bill should properly be called the protection of pilgrims from the tyrannies of a company who had got the monopoly. That is really practically the whole object of this Bill. If any proof were required, it is the speech just delivered by Mr. Morgan. Had there been no monopoly by a particular shipping company, then this Bill would never have been needed and probably there would have been none at all. Therefore, if any Bill depends upon this fact alone that there is a monopoly by one company, it has certainly nothing to do with the Muslim religion or with the Haj.

I have been reading a good deal about this Bill at various stages and I have come to the conclusion that no useful purpose would be served by sending it back either to Select Committee or to the public. Whatever could be said has been said and I would like any one to tell me on the floor of the House whether any particular thing has been left unsaid and, therefore, on that account we should either send it back to Select Committee or for circulation. No doubt there is an honest difference of opinion on two or three points: these differences of opinion have been there all the time—on the occasion of the Haj Committee's report and in Select Committee as well as in private consultations and conversations. The only way to settle them is by the vote of this House in the absence of any other method of settling it. The other methods of conversation,

[Dr. Ziauddin Ahmad.]

etc., are now finished and this is the only way left. I realise that there are two or three important points to be settled, but we will have to take them up when we come to consider the Bill clause by clause.

One is the question of food. The arguments on both sides of this question are well balanced. We want the convenience of the passengers and, at the same time, we have to consider the pockets of the people who are travelling. Some people honestly believe that a company which has got the monopoly cannot give good quality food at reasonable prices unless there is very strong supervision: without some such guarantee it would be difficult and, therefore, I do not know whether it will serve any useful purpose to refer back this question.

The next question is about accommodation. It is calculated here in a mathematical manner 18 sq. feet per passenger. If there  
4 P.M. is a room with certain dimensions and you can divide it by providing 18 sq. feet for each person, perhaps it may be a fit room for passengers: but when the people actually lie down, the length may be too long or too short or the breadth may be too long or too short: and as my friend Diwan Bahadur Ramaswami Mudaliar says, some persons might be too tall and some too short. The Committees which are being set up will face these minor difficulties and they will be able to do the needful.

As regards the return tickets, the companies are profiting enormously at the expense of the poor pilgrims: this matter can be settled when we discuss the Bill clause by clause. Therefore, Sir, unless somebody can say on the floor of the House that such and such points have not been discussed in Select Committee and are such that public opinion should be elicited thereon, I say, it will serve no useful purpose to send it back to Select Committee or for circulation. This Bill has been waiting for such a long time that I for one would say "For Goodness sake, settle it one way or the other. If we go on indefinitely, we can come to no conclusion." Therefore, I am of opinion that we should take it up and settle it one way or the other.

**Maulvi Muhammad Shafee Daoodi** (Tirhut Division: Muhammadan): Sir, I do not grudge the long speech of my friend, Khan Bahadur Haji Wajihuddin, because he has ventilated the grievances of a small section amongst the Muslims who feel that intervention of this Legislature in a matter like this is some sort of interference with their religion. It is all right that he has expressed all that that section had to say in his speech; but I fail to see if my Honourable friend has been able to make out any case for recommitting the Bill to Select Committee.

The troubles of the Hajis have been coming on for a very long time: they have been ventilated in this House from time to time and it was, owing to the pressure brought by the Muslim Members of this Legislature, that the Haj Inquiry Committee was appointed and these three questions which are before us at the present time were fully discussed for nearly eight months in that committee by nine competent Muslim Members of this Central Legislature along with that sympathetic Chairman, Mr. Clayton. The provision of this Bill, so far as compulsory food for the pilgrims is concerned, is certainly in accordance with the unanimous recommendation of that committee. On that question

my friend has seen how the shipping companies are vehemently opposed to that sort of innovation. This has been their attitude from the very beginning; but Mr. Clayton assured us that he had been able to secure the consent of responsible men in the shipping companies; if the measure was adopted by the Haj Inquiry Committee unanimously and if the Government approved of the measure, they will see that the recommendation was carried into effect. We worked for it because we could not think of any other plan by which we could minimise the troubles of the pilgrims while they were on board the ship. The sole reason for much of the troubles to pilgrims while on board the ship is the accumulation of uncooked food, vegetables and live stock and other things necessary for cooking their food on board the ship. If this provision is accepted by the House and the shipping companies see their way to act up to it in the spirit in which it has been recommended by the Haj Inquiry Committee, I think it will prove to be a great boon to the pilgrims going for the Haj, and in future the trouble which frightens so many enlightened persons from going on pilgrimage will, to a great extent, be minimised. In future I hope many educated and enlightened men will find it easy to board the pilgrim ship and perform the Haj. It is the insanitary condition of the ship which carries pilgrims which deters so many people from undertaking that voyage and that condition on board the ship cannot be done away with in any other way except by putting the whole responsibility for cooking the food on the shoulders of the shipping companies and distributing it in a manner which would prevent the uncleanness which we have experienced on these ships. I have been to the Haj myself and have been twice to see the conditions which existed in 1929. I have been on the ship from Bombay to Karachi and during those three days we could not feel comfortable because there were so many people cooking their food and making the whole place unclean. I would request my friend to see his way to waive his objection to the supply of cooked food which has been provided in this Bill. Of course his objection as regards the alternative system of purchasing return tickets or depositing passage money has certainly a good deal of substance in favour of the pilgrims. We examined that provision with very great care at the time we were discussing this question. On that question also we came to the unanimous conclusion that the return ticket system was creating trouble for the pilgrims on their return journey. It is the deposit system alone which will give them a ready ship when they had performed the Haj. Unfortunately, the Government have not seen their way to enact a provision for keeping only one system for the pilgrims. I was told that we could not thrust down the throats of the shipping companies all our reforms in one instalment. The one reform which we are going to make as regards feeding of pilgrims on board the ship is a very great responsibility that is being thrown upon them. Let this be done in the first instance, and later on we can examine the provisions as regards the alternative system and see what can be done. I could not help it. I found that after all the two systems were optional; either of them could be adopted by the pilgrims, and there is now an agency of the Port Haj Committee at the ports of embarkation to advise the pilgrims. We are also at liberty to organize Haj Committees in the mufassil as well as in provincial towns. These are the agencies which could advise the intending pilgrims to deposit passage money instead of purchasing return tickets. This remedy is to a certain extent in our hands, and, therefore, we can wait



[Maulvi Muhammad Shafee Daoodi.]

for this, but we cannot wait for the other provision included in this Bill. For these reasons, I think that we should decide once for all as to what we are going to do with this Bill, otherwise it will have to be delayed for one year more.

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain** (Member for Education, Health and Lands): Sir, the motion before the House is a simple one, and that is to re-commit the Bill to the Select Committee, and with your permission I will restrict myself to deal with the motion itself, and not try to meet the criticism of the various provisions of the Bill.

It has been very rightly observed, Sir, that the Select Committee has dealt with all the points that arose in discussions and that there is nothing in the speech of the Honourable the Mover of the present motion to indicate that there are points which have not been considered by the Select Committee and a re-committal of the Bill to the Select Committee would enable it to arrive at conclusions on those points. To my mind, that concludes the debate. I would have resumed my seat now but for the fact that the Honourable the Mover of this amendment in his speech had unfortunately expressed certain dissatisfaction or disappointment at, what he called, the policy of the Government or the attitude of the Government. Again and again he said that there is nothing in the Bill which can be said to be doing a good turn to the pilgrims. He further complained that he has not had fair play in the Select Committee, and he concluded his long tale of complaints by saying that he was not given an opportunity or rather the Select Committee was not given an opportunity of intervening with the shipping people in order to improve the position of future pilgrims.

As regards the general attitude of the Government, I have only to invite the attention of the House to the fact that it was in 1927 that on a Resolution of this House, the Haj Inquiry Committee was appointed to go into the whole matter, that they did go into the whole matter, that the Committee was, except for the Chairman, entirely Muslim, that it was not lacking in Hajis, and that it represented the different provinces of India as well. The Report of the Haj Committee was published and translated, and, I believe, has been read too by some. It made over 200 recommendations—and I have more than once stated—published a detailed communiqué to the effect that more than 80 per cent. of the recommendations of the Haj Inquiry Committee have been accepted by the Government after they were considered by the Standing Haj Committee, that of the remaining, nearly half have not been finally decided because of their very nature, and that of the recommendations rejected, barring two or three, none have been rejected except on the recommendation of the Advisory Committee. Therefore, to make a statement on the floor of this House complaining what is the good of having Advisory Committees if you do not carry out their advice, is, it seems to me, very unfair, particularly when the Honourable Member knows that there is not a single recommendation of the Advisory Committee, barring the one referring to compulsory deposit, that has not been accepted by the Government. The present Bill is entirely based on the Report of Haj Inquiry Committee

except to that extent; but this Bill does not include all the recommendations of the Haj Committee for the very obvious reason that all the recommendations did not need legislation. Therefore, the Report of the Haj Committee should not be judged by this Bill, because this Bill only refers to one small part of the problem, that is to say, the reforms connected with pilgrim ships and therefore you look in vain into the provisions of this Bill to say what work has been done by the Haj Committee. That, I think, Sir, will suffice to meet the point as to the policy or the attitude of the Government. The policy and attitude of the Government, if I may, with your permission, enunciate, are to help pilgrims to Hedjaz in going there and getting back with as much comfort and as little expense as possible. It is not the duty or the business of the Government to in any way discourage Haj. People go to all sorts of places from India. Indian Muslims do that,—why not to Haj? Some of us feel, Sir, that going away from India has a very salutary effect on those who do go. They come back more experienced and wiser men than they were when they left the Indian shores. However, Sir, leaving this matter alone, let me assure the House that the Select Committee was appointed by this House last April. I forget the date. It was possibly the 5th. We have just missed it by two days. We met at Simla for more days than one, thrashed out every possible provision. As is usual with Select Committees, this one believed in taking time over their deliberation and my experience has been that it is never wise to prevent their taking as much time as they like. We more or less finished our report at Simla. We decided to sleep over it for a few months during the monsoon and have a look at it again when we are in Delhi, thinking perhaps in the plains more light may dawn on us to arrive at certain conclusions on points that we left over for that light. We were told that there will be a great deal of discussion and, therefore, we should set apart a number of days. I do not know exactly the number of days that were required by a particular member, and I do not want, what I say, to be construed as any attempt on my part to win a smile or perhaps a laughter from you, that is not my intention. We fixed three or four days to be on the safe side and we settled down to our business. We were able to finish it much earlier than we anticipated and therefore to say that ten days were not given to it and Government's attitude of mind was very unfavourable is neither intelligible to me nor to those who sat on the Select Committee. Two of them have spoken already. I think it is an undeserved reflection on one of those who had the difficult task of presiding over the deliberations of the committee. Then it was said "Why don't you give us a chance of getting into touch with the shipping companies and getting privileges for the Hajis". Now, Sir, I assure you that if I saw any prospect of obtaining privileges from shipping companies for the Hajis by spending a hundred or two hundred rupees or one or two thousands for the matter of that, from public funds, I should consider it foolish to economise. I would gladly spend that amount, but you, Sir, know what these shipping companies are. They can effect marvels. They have a trick of making strange bed fellows of Khan Bahadur Haji Wajihuddin and Mr. Morgan.

[At this stage Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) resumed the Chair.]

Moreover, certain information supplied to us by the shipping companies indicated the inadvisability of utilising individuals, whether members of the Select Committee or not, for such negotiations, but every

[Sir Fazl-i-Husain.]

one of us was free on his own responsibility to seek information from the shipping agency directly or through us and for this very reason certain representatives of the shipping company were requested to be present at Simla and they were talked to. Moreover, we were lucky to have in the Select Committee one who knew all about the shipping companies and their views and their wishes and who gave expression to them a few minutes ago. Sir, this concludes my observations on the points which deserve some comment. I have decided not to make comments on the other points raised as they will no doubt be dealt with, if the Bill is considered clause by clause, and then, no doubt, decisions will be arrived at to the satisfaction of this House.

**Mr. Muhammad Azhar Ali** (Lucknow and Fyzabad Divisions: Muhammadan Rural): When I rise to support the motion for re-commitment to the Select Committee, I do it on very different grounds to those of my friends who have spoken today. I take the statement of the Honourable Member who has just sat down that the recommendations of the Committee have not been accepted by the Government. It is quite correct. They could not be accepted. He himself said that they do not require legislation. I quite agree with what the Honourable Member has just said and why should they, as I will show to this House from the history of this legislation that it was never the intention of Government to accept all the recommendations of the Standing Haj Committee or any committee, either the Bombay Haj Committee or the Madras Haj Committee or the Karachi Haj Committee. I make this statement on the floor of this House that Government's policy ever since 1921 has been to stop the pilgrimage of the Mussalmans to Arabia as much as they could. This is my contention and I am prepared, in proof of it, to read from a book which I have got from the Library of this House. From some passages in the book, it will be quite clear what the tendency of the European countries has been, what they want and how they want to stop this Haj pilgrimage as much as it lies in their power. I also agree with the Honourable Member when he says that the policy of Government is to help the pilgrims as much as possible, to go and come back with as much comfort and as little expense as possible. He said also it is not Government's purpose to promote the Haj.

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** Not to do propaganda.

**Mr. Muhammad Azhar Ali:** I agree with that. It is not Government's purpose to promote the Haj. Now, Sir, here is a book written by one Mr. Lothrop Stoddard, an Englishman, which has been published in London, "The New World of Islam". Its first publication was in September, 1921, when the war was fully finished and the Great Powers were discussing as to what was to be done with the Asiatics and with the Moslem countries of the world. Sir, I shall read first of all from page 88 in which the writer says:

"Islam's solidarity is proverbially buttressed by two of its fundamental institutions the Haj or pilgrimage to Mecca and the Caliphate."

After a few sentences it says :

"The political implications of the Haj are obvious. It is in reality a perennial Pan-Islamic Congress where all the interests of the faith are discussed by delegates from every part of the Muhammadan world and where plans are elaborated for Islam's defence and propagation."

Sir, I say it is an absolute lie. The Mussalmans of India or from other places do not go to the Haj to do such things as elaborating political plans for the defence and propagation of Islam. Then it says :

"Here nearly all the militant leaders of the Muhammadan Revival (Abd-el-Wahab Mahommed ben Sennussi, Djemal-ed-Din el Afghani, and many more) felt the imperious summons to their task."

Sir, it is a calumny of Islam to say that Mussalmans go to the Haj otherwise than to perform ceremonies which have been ordained by the Holy Koran. It was ordained, Sir, 1,300 years ago that the Haj pilgrimage was one of the duties of the Mussalmans, and it was never mentioned in the Holy Koran that Mussalmans were to go to the Haj to do all these other things ascribed to them. No Mussalman goes to the Haj otherwise than to perform his Haj or with the object of elaborating plans against the Western civilization.

**Maulvi Muhammad Shafee Daoodi:** On a point of order, Sir, Why should my Honourable friend refer to these statements if he does not believe in them? They have not been put forward in any arguments in support of the Bill by anybody?

**Mr. Muhammad Azhar Ali:** My argument is, that I may or may not believe in these statements, but this appears to be the belief of the Western world as disclosed in this book, written by an Englishman in London. I want to show up the propaganda against the Haj which is going on. Sir, the author further goes on to say on page 40 :

"This, however, is a distinctly short-sighted view. The Caliphate institution is still undoubtedly venerated in Islam. But the shrewd leaders of the modern Pan-Islamic movement have long been working on a much broader basis. They realize that Pan-Islamism's real driving-power today lies not in the Caliphate but in institutions like the Haj and the great Pan-Islamic fraternities such as the Sennussiya, of which I shall presently speak."

This is why the pilgrimage should be interfered with by the Powers that be. Then, on pages 40-41, it says :

"By the middle of the nineteenth century, however, the situation had radically altered. The French conquest of Algeria, the Russian acquisition of Transcaucasia, and the English mastery of virtually all India, convinced thoughtful Moslems everywhere that Islam was in deadly peril of falling under Western domination. It was at this time that Pan-Islamism assumed that essentially anti-Western character which it has ever since retained. At first, resistance to Western encroachment was sporadic and uncoordinated."

Sir, my submission is that ever since 1921, ever since this book was written, what do we find? If one were to read the history of this legislation, it would appear to one that in 1895 an Act, called the Pilgrim Ship Act, was passed and received the assent of the Governor General. Sir, in 1923, the Indian Merchant Shipping Act of 1923 was passed. With the publication of this book the feeling grew in the Western countries that Pan-Islamism and the Haj should be stopped as they were believed to be the cause and the root factors operating to uproot Western civilization.

[Mr. Muhammad Azhar Ali.]

Between the Act of 1895, and so many years after this book was written, an Act called the Indian Merchant Shipping Act, No. XXI of 1923, was passed by this Legislature consolidating all the different existing Acts regarding merchant shipping, with certain modifications. Then, in 1925, certain amendments were made; for instance, for the words "the Local Government" the words "Governor General in Council" were substituted. Then, in 1925, another amendment was made concerning the touching of ships at Aden. Now, other main changes in respect of return tickets and deposits were made compulsory. In 1927 conditions for pilgrim ships were laid down for sale of tickets, etc., which were detrimental to Hajis. So, I submit, that all these have been happening one after another, ever since Europe was enlightened of the above facts through such writings. Then, in 1932, in this year of grace, what do we find? Sudden action is taken to give effect to the European policy. The second edition of this book was issued in 1922, then the third edition was in March, 1929, then a cheap re-issue was made in May, 1932. So, Sir, my contention is that ever since 1921 till 1932, changes after changes are being made and more and more vigorous restrictions are being placed on the Haj pilgrimages of the Mussalmans. Now, Sir, I shall read some further extracts. Speaking of His Highness the Agha Khan's statement about the Haj and the Pan-Islamic bond, the authour says:

"If such is the attitude of Moslem liberals, thoroughly conversant with Western culture and receptive to Western progress, what must be the feelings of the Moslem masses,—ignorant, reactionary, and fanatical?"

Sir, this is in connection with Pan-Islamic feelings and reference is made to some expression by His Highness the Agha Khan who had said something about Pan-Islamism. That statement was that:

"There is a legitimate pan-Islamism to which every sincere Muhammadan belongs,—that is, the theory of the spiritual brotherhood and unity of all the children of the Prophet. The real spiritual and cultural unity of Islam must ever grow, for to the follower of the Prophet it is the foundation of the life and the soul."

But, this has nothing to do with Haj. Then, Sir, further on, it says on page 65:

"We should not delude ourselves into minimizing the dangerous possibilities of the present situation."

Sir, these are the implications of danger which I find in this book. Then, on page 67, it says:

"Moslems fully appreciate the post-office, the railroad, and other modern methods of rapidly interchanging ideas. Every Moslem country is in communication with every other Moslem country: directly, by means of special emissaries, pilgrims, travellers, traders, and postal exchanges; indirectly, by means of Mohammedan newspapers, books, pamphlets, leaflets and periodicals."

From all this, the author traduces Muslims and their pilgrimage. Sir, this book establishes that although Pan-Islamism may become one of the causes of the disruption or unity of the Western Powers, it is the Haj and the pilgrimage to Hedjaz where the Mussalmans meet to discuss different questions of policy that is the most dangerous of all.

Now, coming to the Bill, Sir, what are the objections raised? I find there is food objection, space objection, fare objection, health objection. Thus there are all kinds of objections and they have been so enacted to the detriment of the Mussalmans who go to perform their Haj that I cannot detach my mind from the policy which I read out to the House just now, namely, that it is the Haj which is the occasion of the Islamic propaganda that is going on in the world.

Now, Sir, I come to the point. My conclusion is that if these restrictions remain in force, it is sure to decrease the number of pilgrims to a very great and appreciable extent as a result of the policy, and as it is proposed to restrict the dietary conditions of the Mussalmans on board the ship—and who would be affected the most? As is mentioned in this book, it is mostly the poor Mussalmans and the masses who go in large numbers to the Haj.

**Major Nawab Ahmad Nawaz Khan** (Nominated Non-Official): Is it compulsory for a poor Mussalman to go to perform his Haj?

**Mr. Muhammad Azhar Ali**: I do not mean to say that there are no rich Mussalmans who go to perform their Haj. But these rich people are not put to many troubles. With money in their pocket, they can do anything they like; they can go anywhere; they can get first class tickets. Even if they care to bribe, there is nothing to stop them from bribing Health Officers and other people. But the difficulty is felt by these poor masses of Mussalmans who go to perform their Haj. Sir, I do not know whether the same restrictions prevail in other parts of the world when people go to Hedjaz to perform their Haj, but I am sure that these difficulties have arisen ever since the year 1921 as I have shown. On these grounds, I support the amendment.

**An Honourable Member**: The question may now be put.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is that the question be now put.

The motion was adopted.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The original question was:

“That the Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes, as reported by the Select Committee, be taken into consideration.”

Since which the following amendment has been moved:

“That the Bill, as reported by the Select Committee, be recommitted to the Select Committee for further consideration.”

The question I have to put is that that amendment be made.

The motion was negatived.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question now is:

“That the Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes, as reported by the Select Committee, be taken into consideration.”

The motion was adopted.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

“That clause 2 stand part of the Bill.”

**Mr. G. Morgan**: Sir, I beg to move the amendment which stands in my name:

“That clause 2 of the Bill be omitted.”

The only arguments that I can bring forward in support of this amendment are those which I have just mentioned in regard to compulsory fooding. The effect of this amendment will be that clause 155 (c) in the Indian Merchant Shipping Act, as it stands at present will remain and clause 2 will be omitted from the amending Bill. If my amendment is carried, then pilgrims will be permitted to have fuel supplied to them on board and the reason I put forward is that in my opinion the pilgrims should be allowed to do their own cooking on board. Therefore, I commend this amendment to the House.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Motion moved:

“That clause 2 of the Bill be omitted.”

**Sir Muhammad Yakub** (Robilkund and Kunnaon Divisions: Muhammadan Rural): Sir, the Bill before the House, as well as the former Act which we passed in the last Session of the Assembly are no doubt an indication on the part of Government that they want to give facilities to intending pilgrims to Hedjaz. I do not at all subscribe to the preposterous view that Government are putting obstacles in the way of Mussalmans proceeding to Mecca or Medina. Sir, the history of this legislation will show that this series of legislation was introduced in the Legislature at the express wish of the Mussalmans themselves. It was first the Jamiat-ul-Ulema-i-Hind, so far as I remember, which passed a resolution to the effect that Government should take into their hands the question of travelling conveniences of the pilgrims and it was, on the strength of that resolution, that a Resolution was moved in this House by Mussalman Members in which they asked Government to institute an inquiry and after that to introduce legislation in order to provide conveniences to the intending pilgrims to the Hedjaz. As a result of that Resolution, a Committee, consisting of Muslim Members, was formed. I need not go into the history of all this legislation, because it has just been related before the House. But what I submit is that all these measures were taken by Government at the request of the Muslims. These enactments were not introduced by Government at their own will; they were not at all anxious to bring any of these measures before the House.

Now, Sir, on the present occasion the scope of my speech is very limited and it is confined to clause 2. I submit that there is really a genuine difference of opinion on this matter. It may be that the majority of the members of the Haj Committee were in favour of having compulsory food for the pilgrims, or perhaps they were unanimous about it. But I have no doubt that the unanimous opinion of the members of the Haj Committee is not in accordance with the overwhelming opinion of the Muslims outside the House. So far as I know, Muslim associations, Muslim leaders and a very large number of Muslim masses are against this provision. And if the intention of Government is to carry out the wishes of the Muslims then

I think it would not be right for them to introduce a provision which is against the wishes of the majority of the Muslims. If Government had accepted all the recommendations of the Haj Committee, then there would have been some excuse for putting this provision as well. But when Government accept some provisions and reject others, then I think it is not right for Government to come under the cover of the unanimous opinion of the Haj Committee and say that because the Haj Committee has unanimously agreed to it, therefore they should accept this and go against the opinion of the overwhelming majority of the Muslims in India. Sir, my Honourable friend, Haji Wajihuddin, and Mr. Morgan have already stated in detail the difficulties in making the food compulsory and it is not desirable that I should reiterate them here. But I should submit that besides the difficulties, which they have stated, there are certain other difficulties of a more serious character. For instance, my first objection is about the meat which would be supplied to the pilgrims. Serious objections are bound to be raised by religiously inclined Muslims, who go on pilgrimage, whether the killing of the goats was carried out by Muslims or not. Then we mostly find that the cooks on the ships are Goanese who are not Muslims. We, who live in the Cecil and Maiden's Hotels, may not object to it or try to find out whether our food is cooked by Muslims or Goanese; but certainly those who are religiously inclined and go on pilgrimage to Mecca will not certainly touch or go near food which is cooked by non-Muslims. That will be another great difficulty. Then about the purity of utensils and things like that. As has already been pointed out, it is not only Muslims from India who go on pilgrimage, but they go from different parts of other countries, and the food of all the countries is different from each other. Even in our colleges and boarding houses, it must be the experience of all who have lived there, that boarding arrangements have always been subjected to great criticism and the boarding food was never appreciated in any college whether in India or in England, because the tastes are different. My Honourable friend, Diwan Bahadur Mudaliar, takes chillies while I cannot take them at all. So it would be impossible for the company to prepare food of 500 kinds or even of a hundred varieties. All these difficulties, besides those which have been mentioned by my friends, are, I think, such as need consideration. And when we are satisfied, and I am sure I can satisfy the House, that an overwhelming majority of the Muslims are against this provision, I do not see why Government should insist on the food being made compulsory on pilgrim ships. By all means make it optional. Those, who want to have their food in the common dining hall, may have it, and those, who want to make their own food, can do it. A very serious objection was raised by my friend, Maulana Muhammad Shafec Daoodi, to the effect that all the filthiness and uncleanness on the pilgrim ships is due to the cooking of the food by the individual Hajis at their own places. A remedy for that can be found, and it is this that a number of kitchens may be provided on board the ships and the Hajis may be asked not to cook their food at their own place or in their own cabin, but they should be made to cook in the common kitchens and prepare food there; and the responsibility for cleaning and washing the common kitchens should be of those who are managers of the ship. The cleanliness of the other parts is for the shipping company. If that is done, cleanliness will be obtained while the objection of the Muslims will also be removed. Therefore, I support the amendment and I submit that cooked food should not be made compulsory for the Hajis.



**Maulvi Sayyid Murtuza Saheb Bahadur** (South Madras : Muhammadan): Sir, first of all I will meet the argument put forward by Mr. Morgan who, as you know, is in a way interested to see that cooked food is not supplied to the Hajis, and Sir Muhammad Yakub supported him in a way. But Sir Muhammad Yakub knows as Secretary of the All-India Muslim League and as a trustee of the Aligarh University that whenever Muslims from different parts of India meet at Aligarh and other places in connection with the All-India Muslim Educational Conference, the All-India Muslim League, or the All-India Muslim Conference, Muslims of different tastes eat together, without being inconvenienced to any extent. There is no difficulty whatsoever. Education has nothing to do so far as diet is concerned. Men without education may be satisfied with simple diet, whereas an educated man may require sumptuous meal. Then, Sir, there is very little difference as regards meals. There are some who take rice, and others who like *chapatis* or *paratas* as the case may be. When the company undertakes or is called upon to undertake arrangements for two or three varieties, there is no difficulty. Sir, Sir Muhammad Yakub, has criticised the recommendations of the Haj Inquiry Committee of which I had the honour to be one of the members. Sir, our recommendations were not based only on our personal experience. We examined about 400 witnesses and our recommendations were based on the evidence given by those persons. He need not accept these, because they are our recommendations, but he will have to accept these recommendations because they are based on the evidence of about 400 respectable persons including Hajis. Therefore, no case has been made out either by Mr. Morgan or his supporter, Sir Muhammad Yakub. Sir, in the interest of the pilgrims the members of the Haj Inquiry Committee have travelled with them from Bombay to Karachi on board the ship and realised their difficulties. Supply of cooked food at a sum not exceeding Re. one per day will solve many of the difficulties.

**Khan Bahadur Haji Wajihuddin.** But all the 400 people were not in favour of them.

**Maulvi Sayyid Murtuza Saheb Bahadur:** Most of them of course. We have taken into consideration the views of the majority. The fact to which the Haji Saheb is . . .

**Mr. G. Morgan:** May I ask the Honourable Member whether he is referring to the conclusions, paragraph 272, in which they say that it may appear to be against the weight of evidence recorded?

**Maulvi Sayyid Murtuza Saheb Bahadur:** I will just refer Mr. Morgan to paragraph 159 which he seems to have deliberately left out. What was to his purpose is contained in paragraph 157 which he has placed before the House, but the following paragraph 158 which he has carefully avoided to quote runs as follows:

“Compulsory provision of cooked food in all cases recommended.”

That is the heading, and the paragraph runs thus :

"We fully realise the difficulties involved, but after prolonged discussion we are unanimous in the belief that the advantage which would accrue to the pilgrims as a whole by relieving them of the necessity for doing their own cooking on board ship, would be so great, that the present system must be altered at the earliest possible moment. Further we are satisfied that, while it would be unreasonable to expect a steamship company or a contractor to supply, as part of a standard menu, a dozen different varieties of food, it is possible to frame such a menu with sufficiently few alternatives to make its provision a feasibility, while these alternatives would be adequate to provide sufficient variety to ensure that the pilgrim, from whatever province or country he might hail, would be assured of a supply of food which, if not exactly what he would cook for himself, would not be distasteful to him and would provide for him sustenance adequate to keep him in a good physical condition."

Sir, from this it is obvious that the main object of the recommendations of the Committee was to secure the absolute healthy condition of the pilgrims who have to take long voyage and to see that they get back to their places, so far as is possible, quite hale and healthy. This was the chief object in view. I, therefore, oppose the amendment.

**Khan Bahadur Haji Wajihuddin:** Sir, I wish to quote only a few paragraphs from the Report of the Haj Inquiry Committee and  
 5 P. M. I feel it my duty to read it only in support of the amendment moved by my Honourable friend, Mr. Morgan. The Haj Inquiry Committee says :

"Instead of being all of one class as the Javanese pilgrims are, the pilgrims from India are not only drawn, as has already been stated, from the different provinces of India itself, the inhabitants of which are not used to the same kind of food, but also include Persians, Afghans, Bokharans, Tibetans, Chinese, Burmese, and Malayas and, under existing conditions, any attempt to supply all the varieties of food to which each of these different classes is accustomed would be likely to prove a failure."

The Report of the Haj Inquiry Committee further states :

"Under existing conditions, many experienced witnesses have, while admitting the desirability of the proposed innovation, expressed the opinion that the difficulties are insuperable, or at any rate so great that all that is possible for the present is to make further experiments with the 'hotel' system."

With these observations, I support the motion.

**Mr. Uppi Saheb Bahadur** (West Coast and Nilgiris: Muhammadan): Sir, I am really sorry that I have to differ from a gentleman, for whom I have very great respect and regard as my *Guru* as it were, Sayyid Murtuza Saheb Bahadur. This is a matter in which we all feel differently. One Member said on the floor of the House a few minutes ago that the policy of the European Governments seems to be to prevent or to discourage pilgrimage to Mecca. This very clause seems to support that case. It will stand in the way of poor Mussalmans. Many poor people go to Haj with merely a small sum with them. They start from their own place with about Rs. 800 or Rs. 400. They go to Bombay, Karachi or Calcutta, wait on some rich man proceeding to Jeddah and go as the latter's servants or as help-mates to him. According to this provision hereafter such persons will have to deposit money for their provision on the way. It will certainly

[Mr. Uppi Sahab Bahadur.]

deprive all such poor men the happiness of seeing the holy places, *i.e.*, Mecca and Medina, and the holy tomb of the Holy Prophet. Hereafter these people will not be able to do that. They will have to find money for the rations also. Recently the Government of Bengal issued a communiqué in which they stated that the charge for the food during the voyage up and down will come to about Rs. 30.

Now, Sir, the cost of going to Jeddah and coming back is, according to the Government provision or Government rate, Rs. 165. Hereafter they have to find another Rs. 30 extra. This Rs. 30 to a poor man is certainly a big sum and it may stand in the way of so many people going to Mecca. That is one argument against this provision. Secondly, the Committee recommended that provision should be made for different tastes of Indians. That is really impossible and the argument adduced by my Honourable friend, with all due respect to him, is very superficial. He was asking Sir Muhammad Yakub, when persons from Madras, Bengal and other provinces meet at Aligarh or Delhi or some such centre for conferences and congresses, what do they do. I would remind my Honourable friend that when they go to such places they live as the honoured guests of Nawabs and Raies of the place and they live on such occasions on very rich food: if we find that the food supplied to us at the camp is not suitable to us, we can freely go to the market and buy some thing and satisfy our hunger. But on a steamer on the high seas what will these poor people do? They will have to starve. As a matter of fact, I cannot agree that the food which will satisfy my friend, Maulvi Shafer Daoodi, will satisfy or agree with me or that I can subsist on that food for twelve days . . . .

**Mr. B. Das** (Orissa Division: Non-Muhammadan): Bihar food is much better than Madras food.

**Mr. Uppi Sahab Bahadur**: That may be, but my taste differs from that of my friend. It is no disparagement or belittling the food of others: he likes his food and I like mine and my taste is different, that is all.

Another thing. Let us imagine a steamer with 1,500 pilgrims on board in the early morning hours waiting for their breakfast. Everybody comes and asks for food and what a terrible confusion there will be? Will there be any provision made by the shipping companies to supply this food at their places or will the passengers have to go to the hotels or kitchens? If these 1,500 people were to go simultaneously and ask for food or, say, within an hour, we can imagine what the confusion will be . . . .

**An Honourable Member**: How are they doing it now?

**Mr. Uppi Sahab Bahadur**: They are cooking separately. They do not all come together. If this had been an army, controlled by Captain Sher Muhammad Khan, he can very well regulate and control it; but these are people hailing from remote corners of India, who have never been on board a ship before and never been under the control of anybody. The tumult and confusion will be a sight for the devils to see. What may happen, God alone knows. What is it that prevents the Government from

continuing the system of running hotels on board the ship and let these people buy as they like? The steamers that ply between Madras and Singapore are running hotels on board and if the people want they can buy their food or, if they like, they may cook. Give them the alternative. But the Government are going to compel every Haj pilgrim to pay for his food on the way,—whether he takes food or not, he must pay for it. Suppose I, for the twelve days of the journey, wish to live on dates and dried fruits and milk which I take with me. Government say “No: you may take your provisions with you, but you must pay the company Rs. 30”. Why should I pay Turner Morrison? I am not going to live on anything except dates and nuts and milk, but the Government say that I must pay Turner Morrison thirty rupees. Why should I? Why should they not leave me to myself? I can live on dates and water very well for twelve days . . .

**An Honourable Member:** It will keep you strong and healthy.

**Mr. Uppi Saheb Bahadur:** I say that is in a way patronising a European company. I say if the Government are desirous of helping Haj pilgrims, then each year the Government can very well call for tenders from different steam navigation companies to undertake carrying of pilgrims on favourable terms to the pilgrims. Then the Government can very well lease out the right of carrying passengers to Jeddah to such companies which offer the most favourable terms, as they are doing in Turkey and in Egypt. They call for tenders just before the pilgrimage and they accept the tender that offers the best terms. Why should not the Government of India also do the same? On the other hand, it looks as if the Government want to stand in the way of the pilgrimage and want to discourage it. If they find it difficult, let them stop all companies and let the Muslims take care of themselves. Necessity is the mother of invention and, if such a thing happens, the Muslims will certainly within one year run their own ships. That is the best course and it will be more in the interests of the Mussalmans instead of this nonsense of compelling food down their throat, whether it is Bengali or Kabuli or Bokhari. That food may be very good, but I want only my simple food, and Government asking me to take Bengali or Kabuli or other food, although that food does not agree with me, is highly objectionable and I protest. I think I have taken up much time already, Sir, I support this motion.

The Assembly then adjourned till Eleven of the Clock on Saturday, the 8th April, 1933.





## LEGISLATIVE ASSEMBLY.

*Saturday, 8th April, 1933.*

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) in the Chair.

### MESSAGE FROM THE COUNCIL OF STATE.

**Secretary of the Assembly:** Sir, the following Message has been received from the Secretary of the Council of State:

"I am directed to inform you that the Council of State has, at its meeting held on the 7th April, 1933, agreed, without any amendment, to the Bill to supplement the Indian Tariff (Ottawa Trade Agreement) Amendment Act, 1932, which was passed by the Legislative Assembly at its meeting held on the 3rd April, 1933."

### THE INDIAN MERCHANT SHIPPING (AMENDMENT) BILL—*contd.*

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The House will now resume consideration of the clauses of the Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes. The House was discussing clause 2.

**Mr. M. Maswood Ahmad** (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Sir, clause 2 amends section 105 and deals with the contents of certificate B for native passenger ships and pilgrim ships. I shall restrict my observations to the question of fuel, and I shall discuss about cooking of food at a later stage when we come to clause 4 or 11 as that would be the more suitable stage for discussing that point. Here it can be discussed as a side issue only, because this clause deals with the quantity of fuel which should be kept on a Pilgrim Ship.

By this amendment, sub-section (c) of section 155 of the present Act has been split up into two parts and they are mentioned as sub-sections (f) and (i). Up till now section 155 was not differentiating between a pilgrim ship and a native passenger ship and was for a second certificate B and now Government have split up sub-section (c) into two parts as sub-sections (f) and (i) as I have stated. In clause (f), it is stated that for native passengers the shipping company will have sufficient quantity of food, fuel and pure water over and above what is necessary for the crew, whereas in sub-section (i) it is stated that in the case of pilgrim ships only food and pure water over and above what is necessary for the crew will be kept on the ships. Here Government want to differentiate between a native passenger and a pilgrim.

[Mr. M. Maswood Ahmad.]

One thing that I want to mention here is this. I am very sorry that Government are not aware of the existing Merchant Shipping Acts of other countries. In support of this allegation I want to read paragraph 2 of a letter addressed to me in which the Département concerned says:

"It is regretted that there are no copies of the Merchant Shipping Acts of Egypt and Java available in this office."

I think it was the duty of the Government, before bringing forward this important legislation before this House, to study the legislations existing in other countries on this subject. But, Sir, they have not cared to know anything about the conditions of pilgrims or the legislation bearing on this subject in countries like Egypt, Java and others.

In this connection I may say that this legislation seems to have been based on an Ordinance of the Straits Settlement, Ordinance No. 125, I believe . . . . .

**Kunwar Hajee Ismail Ali Khan** (Meerut Division: Muhammadan Rural): On a point of order. Is the Honourable Member in order in reviewing the whole Bill?

**Mr. M. Maswood Ahmad:** That is not a point of order. I am trying to point out that clause 2 of this Bill has been drawn up or based on the lines of an Ordinance of a country which is pre-historic in nature even now, and I think I am perfectly in order in drawing the attention of the House to that fact.

Now, Sir, what is the condition of the Straits Settlement? If anybody entertains any doubts on the point, with the permission of the Chair, I shall quote a few lines from the Report of the Haj Inquiry Committee itself, to show that this Bill is based on an Ordinance of a backward country wherein they say this on page 195:

"In order to effect the legislative changes involved by these proposals, Ordinance No. 125 of 1929 already referred to may be closely followed."

Now, I ask, what is the condition of the Straits Settlement? I shall read just four or five lines to give the House an idea of what the condition in the Straits Settlement is even today:

"The administration of the colony",

—I am quoting from the Statesman's Year Book,—

"is in the hands of a Governor, who, with an Executive Council, composed of the General Officer Commanding the troops, the Colonial Secretary, the Resident and the Consular Agent of Penang and Malaya, the Attorney General and the Treasury Members nominated by the Governor, at present three in number, and three non-official members."

These are the nominated elements . . . . .

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. The constitution and administration of the Straits Settlement are absolutely irrelevant to the present clause.

**Mr. M. Maswood Ahmad:** Very well, Sir. This much I can say that this Bill is based on an Ordinance of a country which is very backward where there is still one man rule and which is ruled by Ordinances. Bowing to your ruling, Sir, I say that India is not so backward as the Straits Settlement is and so this Bill should not be passed, because it is based on the model of an Ordinance.

**The Honourable Khan Bahadur Mian Sir Fasl-i-Husain:** Surely Ordinance means an Act there.

**Mr. M. Maswood Ahmad:** Sir, I am quoting the actual words used in the Report of the Haj Inquiry Committee, words which have been used by the Government throughout the Straits Settlement which is governed by Ordinances.

Now, Sir, the amendment suggested in this clause aims at differentiating between the two classes of people, native passengers and Muslim pilgrims in the matter of supplying fuel, pure water and cooking food. I do not know what justification can there be for making such a differentiation. If the amendment proposed is accepted by this House, it will deprive the poor Muslim pilgrims of getting fuel for their use on board the ship. The native passengers will get the fuel free, but the pilgrims will not get it. The Honourable Sir Frank Noyce, who was then in charge of the Bill, while moving for the reference of the Bill to a Select Committee, said this:

"It is almost insanitary to have cooking done all over the ship, and it is also a source of considerable danger."

But, may I know what is the logic in this statement? What is beneficial to one class of people is considered harmful to the other. If insanitary condition is due to cooking of food or to the keeping of fuel on the ship, then that sort of insanitary condition will remain as it is, whether it is supplied to the native passengers or to the pilgrims. Similarly, if there was danger of fire, it is absolutely incorrect, because there are special places for cooking food. If pilgrims cook their food at unauthorised places, it is the fault of the Captain or the Manager. It is the fault of the supervising authorities. If there is any insanitary condition, then the Captain must be held responsible for it and not the poor pilgrims. Under the law, there are special places with an iron sheet for cooking the food. If the pilgrims cook everywhere, then the Captain must be penalised. Instead of doing that, they have asked the poor pilgrims not to cook their food.

I should like, with your permission, to quote one passage from the Ordinance of the Straits Settlements, because this whole Bill is based on that Ordinance and, unless I quote it, it will be very difficult to show the real case before the House. This Bill is worse than the Straits Settlement Ordinance. I have taken the Ordinance from my Honourable friend, Mr. Bajpai. Section 193(c) says:

"Good food, fuel and pure water over and above what is necessary for the crew and the other things, if any, prescribed for pilgrim ships have been placed on board of the quality prescribed, properly packed and sufficient to supply the pilgrims on board during the voyage,"

and so on. So you will find there is the word "good" before the word "food". Government had the Straits Settlement Ordinance before them. They had the Haj Inquiry Committee report before them. They had International sanitary Conventions before them. They have selected all the injurious words and clauses from the three documents and put them in this Bill and have left out the beneficial words and clauses. Why did not Government put in the word "good" before the word "food"? They have left it, because it is in the interest of the pilgrims and they have



[Mr. M. Maswood Ahmad.]

left the word "fuel" as well, because it is beneficial to the pilgrims. Now, Sir, I put a question to my friend, Mr. Bajpai, whether Government want to discourage the Haj?

In my opinion, Government are afraid of Pan-Islamism. The whole of Europe is afraid of it. They want to break the connecting link between Mussalmans of different countries, because they come and join there. If you will see the articles published by the *Jamiat-ul-Ulema* paper, you will see it has published a series of articles showing that the European countries want to discourage the Haj. Here Government have omitted the word "good" and the word "fuel" as well. Further, I will say that fuel is required not for cooking purposes only. It will be required for invalids for preparing their medicines. If a man wants to prepare some sort of *Jushanda* (Indian Tibbi medicine), how can he get it prepared without fuel? Then a man wants hot water for bath. So fuel is required not for cooking only. Had it been required only for that, I could have understood the omission of it. The omission of fuel from this clause will make the Act worse than the Straits Settlement Ordinance which will be against the recommendations of the Haj Inquiry Committee.

Then, Sir, the Bill says, the following new clause shall be inserted :

"(f) In the case of a native passenger ship, that food, fuel and pure water over and above what is necessary for the crew and the other things prescribed for native passenger ships have been placed on board of the quality prescribed, properly packed and sufficient to supply the native passengers on board during the voyage which the ship is to make according to the prescribed scale.

Here, again, they are leaving many things in the hands of the Government. I objected in the Committee as well. If Government want to be just and fair, they must place all their cards before us on the table so that we may know what the prescribed scale means and what is their intention, but they do not want to supply us with that information.

In the past, whenever any suggestion was made by my friend, Sir Muhammad Yakub, Government were willing to accept it. I have seen on other occasions Government have accepted the suggestions of my Honourable friend, the gallant knight of Moradabad. I was not present here yesterday, but I find from the papers that Sir Muhammad Yakub as well suggested that cooking should not be prohibited and fuel must be kept in sufficient quantity just as it is kept for native passengers, but this time Government are not going to accept the suggestion of my Honourable friend, Sir Muhammad Yakub.

If Government have got any doubt about the Muslim feeling on this point, let them circulate this Bill. Government did not accept that suggestion also. All the Muslim papers in the country, such as the *Al-Jamiat*, the *Madina*, the *Millat* and others have opposed this Bill and Government are not listening to them. Let them circulate this Bill among the Mussalmans and take their opinion if they feel any doubt and they will know whether the Muslim public is with them or with me or with those gentlemen for whom the Kunwar Sahib or Maulvi Shafee Daoodi speak. Can you show three independent Muslim papers in this country which have supported this measure? I think they will not be in a position to say that. When all the papers have written against it, why are Government insisting on these things? Government say, it is beneficial to the pilgrims. I say,

the pilgrims are the only proper persons to say what is beneficial to them and what is not. I am sitting on this bench comfortably. How can Government say I am not comfortable here, and that I should go and sit down on the floor. What right have other persons to say what is to the comfort of the pilgrims and what is not? These are the points, Sir, which I place before you in connection with fuel. When the question of food comes to be considered, clause 4 or 11 will be the proper place for that, and then I shall place more facts before you and I will show from the documents and from the Government circulars how much hard it would prove to be on the poor pilgrims . . . . .

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** On a point of order, Sir. I understood that this debate on clause 2 was being conducted on the issue whether cooked food should be made compulsory or not. That was the point on which speeches were made by Sir Muhammad Yakub and all other speakers who took part in the debate yesterday. My Honourable friend, not being present here, thinks that he ought to discuss cooked food piecemeal during the morning, and when clause 11 is reached, he would have another debate on cooked food again, after having had his cooked food probably from the Western Hostel or some other place. (Laughter.)

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): On a point of order, Sir. I know that Honourable Members of the Executive Council, whether they belong to this House or the other, have the right to address either Chamber, but I want your ruling, Sir, whether they can raise any point of order on a debate in a Chamber where they are not Members.

**Mr. M. Maswood Ahmad:** I also want to say something on the first point of order after the Chair has decided the point of order raised by Mr. Mitra.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty). Under the Government of India Act, Members of Government who do not happen to be Members of the Legislative Assembly, have got the right of addressing the House; but whether that right carries with it the privilege of raising a point of order is a rather important question which the Chair would like to consider before giving a ruling.

**Mr. M. Maswood Ahmad:** I want to say that this clause 2 deals only with fuel—whether it should be kept on a ship or not, and if it should be kept, in what quantity it should be kept. So I have restricted my speech to this point only. Now, if, as a side-issue, other Members have spoken on other subjects as well, I am not responsible and I want the protection of the Chair in this matter, because the question raised in clause 2 is only the question of fuel, which is an important question, after the disposal of which there will come up the question of food. My amendment is there on the order paper on clause 11 that tickets of two kinds should be issued, and that will be the proper place for raising that point.

**Mr. S. C. Mitra:** Mr. President, I am in complete sympathy with my friend, Haji Wajihuddin, as regards the sentiments he expressed, but I am afraid I cannot support him when he joins with the Honourable

[Mr. S. C. Mitra.]

Mr. Morgan for the deletion of this whole clause. Sir, I am glad that after many months I have had an occasion on which I can agree to a certain extent with the views of my Honourable friend, Sir Muhammad Yakub. I expected that there would have been some amendments on behalf of my Muslim friends amending this particular clause on the lines suggested by Sir Muhammad Yakub, but when the motion is for the total deletion of the whole clause, I am afraid I must oppose it . . .

**Mr. M. Maswood Ahmad:** Sir, I have not finished my speech yet.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Chair thought the Honourable Member *had* finished.

**Mr. M. Maswood Ahmad:** No, Sir. I was replying to the point of order, and then sat down to hear your ruling.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. Mr. S. C. Mitra.

**Mr. S. C. Mitra:** Sir, I claim to address this House on a matter on which our Muslim brethren are primarily concerned. I come from a province where, of course, the majority of the population is Muhammadan, but I come from a district of the Chittagong Division where the Muhammadan population is more than 80 per cent; and it will also be admitted that the vast number of Haj pilgrims hail from my Division, I mean the Chittagong Division. Sir, I know their sentiments. I am not speaking theoretically, but later on I shall try to convince this House that this matter is not very insignificant. My friend, Dr. Ziauddin Ahmad, a great mathematician, thinks that it is merely a question between shipping interests and the pilgrims: and though I was feeling some hesitation when I found that pious Muhammadans like Sayyid Murtuza Sahib Bahadur was speaking on one side and my Honourable friend, Haji Wajihuddin was opposing him, I felt it my duty to tell this House what was the general impression in Eastern Bengal about this piece of legislation. It is not a mere secular point: it is vitally connected with the religious sentiments of the Mussalmans. I think even Sir Fazl-i-Husain will admit that to go on pilgrimage is a duty binding on all Mussalmans who can afford to do it. (Interruption.) I am not giving way. I know it is not in the same category like saying prayers five times a day or giving *Zakat* or a fortieth part of a man's annual income towards charities. It is enjoined that those who are able to perform this Haj should do it, and it is binding on men like Sir Fazl-i-Husain and my Leader, Sir Abdur Rahim. It is binding on wealthy Muslims like my Honourable friends. The Holy Koran says this, and there is no difference of opinion on this point in the same way as there are amongst the Hindus with reference to the interpretation to be placed on their Vedas. The sense of the Holy Koran is explicit: it does not admit of any equivocation or diversity of interpretation where the Koran is clear in its mandate. Not to speak of *Ejma* or *Kaias*, but the Hadis of the Holy Prophet even cannot over-ride the clear mandate of the Koran which is a revelation from God.

**Sir Muhammad Yakub** (Rohilkund and Kumaon Divisions: Muhammadan Rural): But both the Honourable the Leader of the Independent Party and my Honourable friend, Sir Fazl-i-Husain, are, we hope, going to perform their Haj.

**Mr. S. O. Mitra:** Sir, the point has been raised that it is not binding on the poor Mussalmans. That, strictly speaking, is correct, and some have raised the point as to why we should raise this question on the score of poor people. Sir, I shall try to show that by making the Haj pilgrimage more expensive, it will really operate as a great hardship on that class of pious, simple and intelligent Muslims that hail from the eastern part of Bengal. Sir, Mussalmans do consider this as a religious duty, and we find that the poorer people are always more religious and orthodox in their views than great mathematicians and others belonging to the wealthy classes. (Laughter.) So my main point is that you should not in any way unnecessarily raise the expenses involved in going to the Haj. My Honourable friend, Sir Muhammad Yakub, said that there might be arrangements for a common kitchen from which all these people could get their food cooked, but, under the present system, if you compel every poor pilgrim to pay a certain fixed extra amount to cover the expenses of his fooding, that will in many cases prove prohibitive. I do not say that the shipping interests will charge an unnecessarily exorbitant amount, but what I maintain is that the shipping authorities must fix a general rate, an average rate so as to provide proper, healthy, decent food for all pilgrims, and when it is done from that standpoint, generally that is greater than an average amount spent by ordinary pilgrims. It has also been said that the same kind of food for all Mussalmans coming from different provinces will not be suitable. I expect that there will be rules framed to provide that the Mussalmans, who come from the same province and who are accustomed to take the same kind of food, will be afforded all facilities to get similar food. I feel it, because I have raised this very question in connection with the detenus. I found that when they were transferred from their province, the great difficulty they felt was in regard to their food not being cooked in their own style. It is really not a fashionable protest. It is for these people a vital necessity to have food cooked in their own way. Bengalees will not be accustomed to take the wheat-bread as their principal food. The example of some leaders who went to Aligarh for a few days is quite different from the case of these poor people. They are not to stay there for two or three days; they shall have to stay on board these ships for at least 12 days. Besides, when they are going out for a long pilgrimage, they must keep themselves in the best of health as they will have to perform very arduous journey later on by visiting places like Mecca, Medina, and other holy places, further north. So, this trouble about food is not a mere excuse brought in this House, but it is felt by the pilgrims themselves. I certainly echo their sentiments when I say that they require their own food prepared according to their own style of cooking. On these grounds, I consider that, though the deletion of this clause will be a remedy worse than the disease, there will be still time for the Government to insert some clause so that the compulsory food charges may not be so high as to prove in any way exorbitant to the poor pilgrims. With these words, I oppose the motion now before the House.

**Maulvi Muhammad Shafee Daoodi** (Tirhut Division: Muhammadan):

Sir, after I spoke yesterday, I did not like to intervene in this part of the debate today, but I find that there is some misunderstanding brought about in this House in the mind of those Honourable gentlemen who do not know the ins and outs of the pilgrimage, and, therefore, I think that I should make these points clear. It is possible that my Honourable friend, Mr. S. C. Mitra, is under some misapprehension on account of some of the speeches which he had heard yesterday as well as today in this House. I would give them the facts in brief in order to show how this legislation has been proposed. The trouble of the pilgrims, as I told the House yesterday, arises on board the ship and the number of the pilgrims on each ship is generally no less than 1,500. The ship is generally full, because the season of the Haj is at a definite period and pilgrims go in large number to perform their Haj within a very short period of time. Therefore, the ships have to carry a very large number of pilgrims in almost all trips. There is a great crowd on board the ship and, as we know, the space is limited, and in that limited space one has to live for no less than 10 days. One would like that the board of the ship should be clean and fit to live in. Those who have performed the Haj know from their bitter experience that the ship becomes absolutely dirty and not fit to live on with ordinary comfort. Sometimes cholera breaks out on account of the uncleanness of the ship. That is a matter of record. When I went on the pilgrimage in 1925, although I had the first class ticket, I offered to travel on the deck along with other pilgrims as I was most anxious to see that a large number of pilgrims should go on pilgrimage according to the desire of Ibni Saud in that year, who had taken possession of Mecca a short time before. Although the ship was not quite full, still its uncleanness was so bad that I had to implore my pilgrim friends not to make the place more dirty. If you allow 1,500 pilgrims to cook their food, you can very well imagine the difficulties which would arise on account of the limited space available on board the ship. As every one of us knows, even in the case of one family, when they cook their food, the kitchen, the verandah and other connected places become dirty and one has to sweep them away more than once in order to keep them clean.

**Sir Cowasji Jehangir** (Bombay City: Non-Muhammadan Urban): May I ask the Honourable Member one question? Do not these pilgrims—I have been on a pilgrim ship myself—always carry dry fruits with them which takes them along for a number of days? They carry with them dry *Mewa* and things of that sort which do not require any cooking.

**Maulvi Muhammad Shafee Daoodi**: *Mewa* they do not carry generally. Some of them carry *Sattus* and some *Churas*, but it is only a few who carry these things. About five per cent. of the pilgrims carry *Sattus* and *Churas* with them and the remaining 95 per cent carry with them rice, *dal*, goat, eggs, chicken, and so on. The pilgrims generally like, as we all can very well imagine, to have cooked food if it is possible, rather than live on dry food. For that reason a large number of *Chulas* are spread over the selected parts of the ship. This cooking goes on the whole day and they take their food from one place to another. They besmear the whole deck with the liquid part of the food and the whole thing becomes absolutely insanitary. So, I had to ask my pilgrim friends

on board the ship to minimise the trouble by adhering to the discipline which is inculcated by the Doctor or by the Captain of the ship. But they won't listen; they are not in a position to listen.

**Mr. Gaya Prasad Singh** (Muzzaffarpur *cum* Champaran: Non-Muhamadan): Is there no separate place assigned on board the ship for the purpose of cooking?

**Maulvi Muhammad Shafee Daoodi:** There are four or five places assigned for the purpose of cooking. Cement slabs are fixed and on these cement slabs people keep their iron *Chulas* and go on cooking. These places are open to strong wind and high waves at times. Sometimes the *Chulas* fall down and are a source of danger to the pilgrims who are near about them. Having regard to all these difficulties, we thought that Government should take some steps and Haji Abdoola Haroon moved a Resolution to make inquiries in the matter and to see whether these difficulties could be removed. Now, when we went into the inquiry, it took us about eight months to go round the country. And, as my friend, Syed Murtuza Saheb Bahadur, said yesterday, a very thorough inquiry was made as to how the trouble arose and how we could remedy it. After eight months' inquiry, I think all people agreed that the trouble was very great and should be remedied. When we sat for discussion of this subject, I remember that all points were before us and the difficulties pointed out by my friends were all before us. We unanimously came to the conclusion that we should avoid private cooking on board the ship. That is one reform which should at once be taken in hand so that the trouble of the pilgrims may be minimised. I admit that there are about 10 per cent of the pilgrims who are poor and for whom it will be hard to pay the one rupee a day, as suggested by the shipping companies. Is it not reasonable to expect that for the sake of the convenience of 90 per cent. of the pilgrims, the 10 per cent should bear some trouble or the rich amongst them should subscribe for the 10 per cent. This is one of the remedies which can relieve the trouble of the poor.

**Sir Muhammad Yakub:** How many rich people perform the Haj?

**Maulvi Muhammad Shafee Daoodi:** Certainly all of them are possessed of sufficient sums of money for the purpose of defraying expenses. Those who go to Haj are supposed to have got enough money to perform the Haj and to spend on charities also. Then, what I was submitting is this: After we came to this unanimous conclusion, the report was written and published. The publication of the report was hailed by all sections of the Mussalmans and not a single voice was raised against any of the items which we recommended in this Haj Inquiry Committee. Even the non-co-operating *Jamiat-ul-Ulema*, whom my friend, Mr. Maswood Ahmad, represents here, hailed this part of our report. They had not a single word against it in 1929.

**Mr. M. Maswood Ahmad:** I do not represent them, Sir; it is incorrect. I represent my constituency.

**Maulvi Muhammad Shafee Daoodi:** Now, after 1929, we were clamouring for giving effect to these proposals and we had put several questions to the Department as to why those recommendations were not going to be

[Maulvi Muhammad Shafee Daoodi.]

given effect to. When the Department began to consider these questions, I was of course in the dark. I was not in the Standing Haj Committee, but my friend, Mr. Maswood Ahmad, was there and, in the minutes of the meetings held at Simla on the 12th and 13th September, 1931, I find item No. 11 related to our recommendation regarding the responsibility of the companies to supply food to the pilgrims. There I find this:

"All the non-official members" (which included my friend, Mr. Maswood Ahmad) "of the Committee expressed themselves in favour of cooked food being supplied."

This is what he did at that time. However, after that, this Bill came up before this House and it was discussed at Simla at great length. Then I found that this non-co-operating *Jamiat-ul-Ulema*, of which Maulana Ahmad Said was the Secretary, issued several circular letters to the country in order that a day might be observed for protesting against this Bill, which included in it the provision of cooked food. I do not know whether any meetings were held except in a few places where Maulana Ahmad Said had influence. But one meeting which was held at Simla, under his influence no doubt, was held in my presence. I was present there and so also were Maulvi Sayyid Murtuza Saheb and Haji Wajihuddin. The people thought that the provisions of the Bill were not to the detriment of the pilgrims and we passed a Resolution saying that we were thankful that those recommendations of the Haj Inquiry Committee were being incorporated into law so that the pilgrims might have more facilities. Another day was fixed by Maulana Ahmad Said to be observed throughout the country. On that day I happened to be in my own town of Muzaffarpur and there was a large gathering there. I attended the meeting and explained the subject to them. By that time this Bill had been considered at Simla in the Select Committee and this provision was directly under discussion. On that day, when I explained the difficulties of the pilgrims on board the ship and the remedies which had been considered by us to be adopted, I found that the whole audience, a large number of people agreed with me that this is a necessary innovation which has got to be introduced.

My friend has quoted certain papers which have objected to the provisions of this Bill. If my friend will not be annoyed, I would say that these papers are all non-co-operating papers. They do not want to co-operate with Government on any question whatsoever. Of course that is a policy consistently followed by them and no one can object to their following that policy. If they have. . . .

**Mr. M. Maswood Ahmad:** Can you quote three or four indifferent papers which have supported it? You can quote the *Ittehad* which is your own paper.

**Maulvi Muhammad Shafee Daoodi:** I was saying that the papers which my friend had quoted were non-co-operating papers and that they did not want to support anything done by Government or anything which emanated out of this Assembly. Therefore, as this piece of legislation has emanated here, they have got to object to it. Now, my friend would like to know which are the papers which have supported it. I would submit to this

Honourable House that of all vernacular papers there is only one which can be said to have the confidence of the Muslim community as a whole in this country. No other paper can compete with it. It is the *Inquilab* of Lahore, edited by two most eminent graduates of Indian Universities, who have established a reputation for this paper which none of the vernacular papers in this country can doubt, and one of them, Mr. Ghulam Rasul Meher,—he is one of the two editors,—has performed the Haj and suffered along with the pilgrims. Now, that editor has supported this provision of cooked food. I should now think that my friends would be satisfied with the support which Mr. Ghulam Rasul Meher has given to this provision. If my friends want other papers, there are others two—there is the *Eastern Times* from Lahore, there is the *Siyasat* of Lahore, there is the *Azad Hind* of Madras, there is the *Khilafat* of Bombay and there is, of course, the *Ittehad*, but it is not my paper, and it is not right to say so. It is the paper of the Mussalmans of Bihar. I have got as much interest in it as the Honourable Member ought to have, if he has any intention of patronising a local paper.

I have already told the House what is the feeling of the Muslim community on this question. I do recognise, Sir, that on an innovation like this there must be difference of opinion just as it has created an impression in the mind of my friend, Haji Wajihuddin, that the innovation will create trouble for the Hajis. I have no doubt that there are many others who feel like him. I have to say nothing against them. But what is the remedy for the troubles which these pilgrims have to undergo when they are on board the ship? I do not find any other remedy. Of course adhering to the principle of not allowing any private cooking on board the ship, one can suggest any other remedy and I will be the first person to accept it, but no more permission for private cooking. My friend, Sir Cowasji Jehangir, suggested that there are some pilgrims who live on dried fruits. I have no objection to that. They have got every right to live on dried fruits; but, in any case, private cooking should not be allowed on board the ship. With these words, I oppose the amendment.

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#### STATEMENT OF BUSINESS.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Leader of the House will make a supplementary statement of business.

**The Honourable Sir Brojendra Mitter** (Leader of the House): Sir, I wish to make a statement regarding the course of business for the rest of the Session.

With your permission, Mr. President, the Honourable the Commerce Member will move today for leave to introduce two new Bills. I think most of the Honourable Members will be glad to hear that one is the Anti-Dumping Bill. The other is a small Tariff Amendment measure intended to ensure that full effect should be given to the Supplementary Agreement relating to the Steel Industry made after the conclusion of the Ottawa Trade Agreement.

The general position in regard to legislative business has now become very difficult. Government are aware that a majority of Honourable



[Sir Brojendra Mitter.]

Members wish that the Assembly should not sit after the Easter Holidays. Government share this wish, and will do everything they can to enable you, Sir, to adjourn the Assembly on the 12th April. To this end, Government will put on the Notice Paper only business which they consider to be absolutely essential. This business comprises:

- (1) the disposal of the Haj Bill now under consideration,
- (2) the disposal of the Income-tax (Foreign Income) Bill,
- (3) the disposal of the Anti-Dumping and Tariff Amendment Bills to which I have just referred . . .

**Sir Muhammad Yakub** (Rohilkund and Kumaon Divisions: Muhammadan Rural): Sir, the Anti-Dumping Bill is not necessary, while the Income-tax (Foreign Income) Bill is very important.

**The Honourable Sir Brojendra Mitter:** . . . and

- (4) reference to Select Committee of the Medical Council Bill and the Merchant Shipping (International Conventions) Bill.

We have only four working days left for this programme, and I recognise that some Honourable Members may think that they cannot give these important measures proper consideration and finish the programme on the 12th, if we sit only during the usual hours. I would, therefore, request you, Mr. President, to sit after 5 P.M. for an extra period each day sufficient to secure the completion of this programme on that date.

**Mr. C. C. Biswas** (Calcutta: Non-Muhammadan Urban): What about the Murshidabad Bill?

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): It has been made clear by the Chair that, irrespective of its personal convenience, it would adjust the time of the sitting to suit the desire of the House as a whole. The Chair shares the feeling of the Leader of the House and many of the non-official Members that, if possible, the House ought to avoid sitting after the Easter Holidays, and the Chair would appeal to Honourable Members to keep the programme of business in view and try their utmost to finish the programme that has to be got through during the Session. The Chair would give the most serious consideration to the request made by the Leader of the House that, for the next four working days, including today, the House should, if necessary, sit a little late. So far as today is concerned, the Chair wishes to sit till 6 O'clock and, after seeing the progress of business, the Chair will decide what it will do for the next week.

#### THE INDIAN MERCHANT SHIPPING (AMENDMENT) BILL.—*contd.*

**Major Nawab Ahmad Nawaz Khan** (Nominated Non-Official): Sir, I do not wish to take much time of the House. Therefore, I will be very brief on this question. What I wish to draw the attention of the House to is that first of all we should know what is really compulsory, so far as Haj is concerned, for the Mussalman. The order of the Holy Koran:

“*Wa lillahi alannase Hijul baite manis tata elaihe sabila*”—*vide* para. 4, Raku 1.

that it is incumbent on that person who has the ability of performing the journey to Mecca and who has the financial means and physical fitness to do it. In other words, it exempts all the poor persons whose case we are discussing now, which is irrelevant according to Islamic law, and I wish to tell the House that the Muslim law says that a man having financial ability and physical fitness should perform the Haj. In other words, he should have full provision for the journey and for his family, but it does not say that a man should go to some charitable institution and beg from rich persons to enable him to go to Mecca for the sake of Haj. This kind of Haj is no Haj at all. The real Haj is for a man who has two conditions, i.e., financial and physical fitness. It is also said as a command of our Prophet that a man wishing to go to the Haj must have so much money as to enable him to go on ordinarily in ease and peace of mind and without any difficulty. He should, therefore, provide for the maintenance and allowances for all those who are dependent upon him during the period that he is absent from his place while he is on Haj. He should not leave his dependent, mother or wife or children at the mercy of others. Well, the beauty implied in this order is this that a man who has a good amount of money will not care as a poor man cares for a return ticket or for the provision of cooked or uncooked food, which is under discussion now. Our Muslim brethren have discussed this point without giving full attention to the real words and orders of God or Islam. If we follow our religion properly, then many disputed points will appear quite clear . . .

**Sir Muhammad Yakub:** Does the Honourable Member himself follow his religion properly?

**Major Nawab Ahmad Nawaz Khan:** Yes I do and I say to such people who have not come here to interfere in our religion . . .

**An Honourable Member:** Where is your beard?

**Major Nawab Ahmad Nawaz Khan:** You are making a thing which is not compulsory a compulsory thing. Therefore, it is not the thing to do from the Islamic point of view. The other condition is *Wa ta sawa du, vide para. 2, Raku 9*, which means, make proper and sufficient provisions for your journey to the Haj.

If a man really performs the Haj conditions, as they are laid down by the Koran or Islam, then there is no necessity of going into such minor and detailed questions as we are doing today in this House. God says in other parts of the Koran Shareef, *Uridullaho bikomul yusra wa la yarido bikomul usra; vide para. 2, Raku 7*; which means: He is always desirous of giving ease and peace to you all and not to put any one of you in difficulty. It is we who are putting ourselves into difficulty . . .

**Mr. President (The Honourable Mr. R. K. Shanmukham Chetty):** The Chair must intervene and restrict the discussion within the proper scope. The House is not discussing the religious principles of the Haj pilgrimage which the Honourable Member happens to be doing. The narrow question is what arises under clause 2—whether shipping companies must make provision for food or not; and the Chair would ask Honourable Members to confine themselves strictly to the scope of clause 2.

**Major Nawab Ahmad Nawaz Khan:** Thank you very much, Sir, for your very kind advice, and I have full regard for that. I was going to clear all those points by the words of the Koran which are the chief causes of the present dispute and troublesome amendments, regarding men wanting to go on pilgrimage and as they are very poor they cannot afford these things and, therefore, they ought to have some sort of help. Now, I am going to prove that it is not the right thing that poor men should go and perform the Haj under such circumstances, until they have provided properly money, etc., for the Haj . . . . ,

**Khan Bahadur Haji Wajihuddin** (Cities of the United Provinces: Muhammadan Urban): You cannot prevent them: nothing in the Koran prevents them.

**Major Nawab Ahmad Nawaz Khan:** The third thing is this. I had also in view as ordered in *Wal takum minkum umatan yaduna ilalchair wa ya maroona bilmaroof wa yanhauna anil munkar, vide para. 4, Raku 2.* That is, God orders the Muslims that there should be a party among you to tell the people what things are good for them and for telling them not to do anything which is wrong. It is our duty to tell the poor Muslims not to go to the Haj till they have sufficient money; and this duty we are not doing. We have not got the moral courage to say to the public and to the poor people: "You have not got sufficient money. Why do you go? That is the relevancy of the whole thing . . . . .

**Mr. M. Maswood Ahmad:** Government are increasing the "Stata-at" by introducing this Bill.

**Major Nawab Ahmad Nawaz Khan:** The Government are performing the duty which God has ordered you to perform as a good Muslim to stop the poor Muslim. Government are doing the same thing which is ordered in the Koran to be done by us, that is to stop those people. We have not the moral courage to do so. Instead of leading the public properly, we are led by them improperly. Our prophet never had that in mind. He reformed the public and he was never led by the people. Now, we shall be going against the principles and order of Islam if we tell the poor people to go to the Haj and beg for alms and leave their wives and children unprotected and eat this unwholesome and cheap food and undergo all other troubles leaving their families unprotected. Is that Islam? Does Islam tell us to encourage such things for cheap popularity or fear of the press? We must have moral courage . . . . .

**Mr. Uppi Sahib Bahadur** (West Coast and Nilgiris: Muhammadan): I rise to a point order. Is the Honourable Member in order when he gives this homily on the Haj and Shariat when we are discussing about food restrictions on board the ship?

**Major Nawab Ahmad Nawaz Khan:** I have already explained that I am coming to that point. I want first to let the Mussalmans know what is the order contained in their religion. If you are so anxious to know about the question of cooked food, I say this: there are two questions. One is that some Muslims recommend that the Hajis should cook their own food and should not get cooked food from the shipping company,

and the second is that they should get cooked food. Let us compare the two methods and see which is more hygienic, more sanitary and more useful for the Hajis themselves. In the first place, if the Hajis are allowed to have full control of their food, the first difficulty will be that there will be no sufficient accommodation on these ships for having kitchens. Everybody in this House knows that every man is not a cook: he cannot cook for himself: his food is generally cooked by some other person. It might be said that several persons can join and have one cook. But the food-stuffs which they will bring will be very cheap: poor persons cannot purchase good stuff, with the result that diseases like dyspepsia and cholera and such other diseases will break out. If you have a doctor for this purpose who can condemn that foodstuff if it is not fit for eating, then there will be another cry. But if the doctor condemns such stuff after it is brought on board and rejects it, where will the poor men go for food? There will be a cry and we will all say that this is another way in which the Government are putting obstacles in the way of the Haj. But if you allow that unwholesome food, it causes surely cholera or some such epidemic. Just for cheapness you disregard unwisely the bad effects upon the lives of the Hajis and their families and dependents if the Hajis happen to die. But in the case of the shipping company, if you put the responsibility on their shoulders, you can have a doctor appointed by the very Haj Committees there who can examine the food and who can see that everything is done properly, and if he condemns any stuff as not being good, the thing will have to be replaced by the company. Some Honourable Members said yesterday that people of different countries go for the Haj and they require different kinds of food. Generally speaking, whether the pilgrims are Afghans, Persians, Chinamen or Indians, the food that is provided by the shipping company will be either wheat or rice, which is the staple food of most people, vegetables, flour (*Atta*) and ghee. These are the articles generally consumed by all classes of pilgrims irrespective of the place to which they belong. Then comes the question of meat. My friend, Sir Muhammad Yakub, raised the question of *zabiah*. Many Muslims do object to it, but this objection will remain even if the pilgrims are asked to make their own arrangements for it, otherwise they will have to take the meat supplied by the company. Another thing is, if you allow a pilgrim to take goats with him on board the ship, it will be very difficult for a poor man, because he cannot afford to take neither goats, nor ducks nor fowls, nor a truly religious Haji will touch any of these things if killed against the orders of Islam while on a pilgrimage. But, as I have said before, one of the conditions imposed is that the pilgrim must be in a physically fit condition to undertake the voyage. Therefore, if the pilgrims observe their religion strictly and proceed in a fit state of health, they will be able without meat to pass 10 or 12 days without much difficulty on the voyage. Therefore, from a religious point of view, it is not right to encourage the poor pilgrims to proceed to Haj. They should be told that they should have enough money for the voyage and good health, instead of forcing the company by making rules and regulations to suit the convenience of these poor pilgrims. Therefore, in the interest of our community, in the interest of our religion, and in the interest of the poor Hajis and their families, I consider that by encouraging these people to go to the Haj we are doing them a distinct harm instead of helping them. With these remarks, I support the proposal that cooked food on moderate and reasonable price should be supplied by the company instead of leaving it to be provided by the Hajis themselves.

**Sir Abdur Rahim:** (Calcutta and Suburbs: Muhammadan Urban): Sir, I wish to confine myself entirely to the amendment which has been moved by the Honourable Member of the European Group, my friend, Mr. Morgan. He has been taking a great deal of interest, and very naturally, in this Bill, and in the Select Committee he strongly represented the views of the shipping company, which has now the monopoly of the entire pilgrim trade with Hedjaz. At one time, not very long ago, there were some other competing lines or competing vessels which carried pilgrims to Hedjaz, but they have now been put out of action, and Messrs. Turner Morrison and Company have secured the entire monopoly of this pilgrim trade as it is called.

Sir, they take objection to clause 2. The shipping company say: "We shall not be able to make arrangements for the food supply of the pilgrims and, therefore, we would let things remain as they are; let these 1,200 men, who on each voyage want to go to Jeddah to perform their pilgrimage to Mecca, cook their food in their own way; we do not want to have anything to do with it". As a matter of fact, in most other ships, for instance those which carry emigrants, cooking is done by the ship itself. They are responsible for supplying food to the emigrants, and at times I am told the emigrants number a thousand or more. But in the case of these pilgrims things have been drifting so long that naturally the shipping company which has no competitor now is disinclined to make any arrangements for the convenience of the pilgrims, I mean arrangements of the character we are now discussing.

Now, Sir, it is a well established fact which even Mr. Morgan cannot deny for one moment that the present conditions are such that it is impossible for people to travel in the pilgrim ships even with the ordinary comfort they are used to in other steamers. My friend, Mr. Shafee Daoodi, who was one of the nine members who inquired into this matter for nearly a year and travelled all over India and examined all classes of people including a large number of pilgrims themselves, who went over these pilgrim ships and saw things for themselves,—I believe some of the members also travelled part of the way in order to test the arrangements made for the benefit of the pilgrims,—has told us in no moderate language that the condition of things is simply filthy. That may perhaps be too strong a language, but there cannot be the least doubt,—and I say this upon the testimony of a number of men who have spoken to me on the subject, whose letters I have read in the newspapers and whose views have been made public in many other ways in this matter,—there cannot be the least doubt that overcrowding on board the ships is such that these pilgrims are packed like animals rather than as human beings. There are tales I have heard about the miseries of these poor pilgrims which really cannot be repeated before an Assembly like this. What does the Bill support to do? The Government wish that the company should be compelled to make arrangements for the supply of food to these pilgrims, whether they are poor or well-to-do. I should have thought that *prima facie* this would be beyond any objection. We all know that Muhammadans have no caste, they do not recognise even classes. Among us even the servants can sit at the same *dastar khan* and eat, and they do so in fact in many parts of the world. Therefore, to make arrangements for the supply of food to Muhammadan pilgrims ought to be an easy matter. It ought to be much

easier than even for Europeans, because Europeans do observe class distinctions. There are many among them who would not like to sit together with an ordinary day labourer, but many Muhammadans every day in mosques, for instance, stand shoulder to shoulder with their own servants; we have got to embrace them, shake hands with them, and we meet them exactly on the same terms as anybody else, whether he be a rich, noble or the ruler of the land.

Now, as regards the owners of these vessels. If it is found necessary in the interest of thousands of people who go to Hedjaz, to a distant country undertaking a voyage lasting for 10 or 12 days, to enforce rules and regulations so as to compel the company to so arrange things as will conduce to the health and comfort of the pilgrims, I say the Government will be perfectly justified in enforcing any measures they can,—Government will not only be justified, but it will be their bounden duty to enforce such rules and regulations. We know that the shipping companies are powerful companies and they have a monopoly of the whole situation, but I am sure, at the same time, that in their own interests they will be ready to consult the convenience of the pilgrims, because, after all, it is a business concern. It does not matter to them whether the pilgrims belong to Islam or Christianity. It is a matter of business with them and in the interests of the prosperity of their own trade they will certainly see that the pilgrims are as well looked after as possible. Now, Sir, I do not think any reasonable person can deny that the condition of things on board the pilgrim ships cannot be improved unless we make the owners of these vessels responsible for catering for these pilgrims. That is the only way in which it can be done. Now, my friend, Mr. Morgan, said "Oh, it is very difficult to make the structural alterations. It may be costly and impossible". That is, I understand, his objection, but may I point out that there are cooking ranges even now for these pilgrims in order to enable them to cook their food. How one thousand pilgrims can individually cook their food two or three times a day is impossible for me to conceive and I am absolutely sure that a good many of them go without cooked food or live on the charity of others, which is not desirable at all. Why should any radical structural alterations be necessary in order to enable these persons to cook their food. Surely that ought not to present any difficulty at all. The companies are not going to do it for nothing. Of course they will charge a fee. They will charge an addition of so much per ticket.

The next question that has been raised by some of my Muhammadan friends is this. You will increase the cost of the pilgrimage to an extent which some of the poorer pilgrims cannot bear. Now, it is just possible that it will increase the cost to some extent, but not to any great extent. Each pilgrim has now to spend at least Rs. 600 before he can perform the pilgrimage. It costs nothing less than that. I believe that is the estimate. Supposing the journey each way lasts 8 or 10 days and supposing they charge for ordinary food, not rich food, one rupee a day, it will mean Rs. 10 each way. Surely if they carry their own food, it will cost them something, unless they go on the chance of living on the charity of others which I do not think Government or we can take any notice of. If the charitably disposed pilgrims wish to feed some poor pilgrims, they can do so. There is nothing to prevent it. They can make *pulao* and distribute it to the poor. Some of them do that even now. In any case, an addition of Rs. 10 to Rs. 600 cannot be said to be very much. I fully

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realise that Government should not stand in the way even of poor people performing the Haj if they can scrape enough money, for performing a religious duty or what they consider to be a religious duty. It is certainly a religious duty and nobody desires to stand in their way, but I am perfectly certain that if they can spend Rs. 600, they could easily spend another Rs. 10 or Rs. 20 more. That will not be too much of a burden to them. On the other hand, Government will be ensuring a certain amount of decency, comfort and healthy conditions to these poor people. They often come from remote villages, wholly illiterate and in a good many cases they are actually enticed by pilgrim brokers who sometimes assume the name of Muallims. They are nothing but brokers. Some of them are certainly good men, but a great many of them are nothing but brokers or touts who tout for pilgrims in order to make money, and in many of these cases these poor people make the pilgrimage without knowing the conditions. If this regulation is enforced, then I fail to see how it will tend to discourage pilgrimage at all.

A great deal has been said on this subject and I want to say one word about it. It has been said: "Oh, the whole scheme is to put a stop to what is called Pan Islamism". Pan Islamism never existed in fact. Pilgrimage is a part of the injunctions of our religion. It has existed since the birth of the religion. It was never devised as a political machinery or for political purposes. Its merit is solely religious. If it was the idea to utilise it for Pan Islamism or for consolidating the ranks of the Muslims all over the world, that would have been done long long ago. We all know the history of Islam and the Muslim peoples. After five or six hundred years, they have been gradually declining and, if pilgrimage furnished a means of consolidating their ranks, surely the Muslims could have saved some of the Muslim States from disintegration and their present helpless condition. It is a most foolish idea. A man called Stoddard who apparently knows nothing about the subject has written a book which really does not throw any light to any of us who know the inwardness of things. It is written on the basis of wrong ideas which float about among people who are ill informed in these matters in England and Europe. They are responsible for that bogey of Pan Islamism. I suggest another test. Those of us who are old enough to take their memory back for a number of years or can get at the figures, will find that since the rules and regulations have been brought into force, since the Government have taken the least interest in this matter of pilgrimage and enforced certain rules and regulations for the comfort and safety of the pilgrims, pilgrimage has gone up, and I am absolutely sure it has gone up by leaps and bounds within the last few years. (Applause.) Sir, anyone who is possessed of, say, Rs. 600 or Rs. 700 can safely perform his pilgrimage now and go there to Mecca, visit Medina and then come back safe and sound in the course of three months, and there are men nowadays who are performing a pilgrimage every year. We know at one time it used to take one year or two years for a man to perform the pilgrimage, and once one left India for pilgrimage, he practically left in the expectation of dying subsequently in Arabia. But look now at the number of people performing pilgrimage. Therefore, the idea that Government or anyone has an ulterior motive in order to stop pilgrimage is much too fantastic and I was rather surprised that my friend, Mr. Azhar Ali, should have run away with any such idea.

Now, one thing I want to make clear as I was Chairman of the Select Committee. I consented to become Chairman, because I was convinced and everybody in fact knew how terrible were the sufferings of these poor people, and I thought that this Bill, and the other Bills—one of which has not yet been brought forward and which I do hope Government will bring forward soon—would relieve their sufferings to some extent. Sir, the scope of the Bill is this. You have certain provisions in the Merchant Shipping Act. That Act, which is an Act dealing with general shipping matters, owing passengers and other matters, has to be amended so that Government may make appropriate rules and regulations in order to ensure the comfort and safety of pilgrims. Therefore, it is not merely by looking at these amendments to the Merchant Shipping Act or the clauses that have been added that you can grasp at once what is going to be done and what ought to be done in order to carry out the objects which the Bill has in view.—one Bill has already been passed appointing committees at several ports to look after the comforts of pilgrims, and it is expected that these committees will do their duty properly, and if they do so, they will be in a position greatly to help these pilgrims who go to the Hedjaz, especially pilgrims belonging to the class of peasants of Bengal or those coming from the interior of other provinces. Now, then, Government, I take it, will frame proper rules and regulations in consultation with persons who can throw light on the subject. That, I believe, is the intention of the Government, and if they do that, there should be no room at all for any complaint that proper food may not be supplied to a particular class of pilgrims, or that the charges would be unreasonably high. That could easily be avoided, and I am sure my friend, Haji Wajihuddin, if he wishes to advise the Government, can make suggestions; similarly, my Honourable friend, Maulvi Shafee Daoodi, and my Honourable friend, Mr. Azhar Ali, and my Honourable friend, Mr. Sadiq Hasan—they will all be in a position to suggest proper rules and regulations in order to carry out the objects of this Bill. Sir, I do submit that the House should unanimously reject the amendment moved by my friend, Mr. Maswood Ahmad.

**Several Honourable Members:** I move that the question be now put.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

“That the question be now put.”

The motion was adopted.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

“That clause 2 of the Bill be omitted.”

The motion was negatived.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

“That clause 2 stand part of the Bill.”

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.



**Mr. M. Maswood Ahmad:** Sir, I move:

"That clause 4 of the Bill be omitted."

Sir, there may be some misunderstanding on this point as to why, after losing my amendment on clause 2, I should move this amendment, but if you will refer, Sir, to clause 2, you will find, it says that a certain quantity of fuel should be kept on board ship and clause 4 is for supplying fuel to the pilgrims. Here, again, Sir, Government differentiate between the ordinary native passengers and the pilgrims. Further, again, Sir, in sub-clause (c) you will find the words:

"(c) after the words 'fuel and water', the words 'or, if the master of a pilgrim ship' without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any pilgrim the prescribed allowances of cooked and uncooked food and of water".

Now, here the words "without reasonable excuse" are, I think, very objectionable. If you will see sub-clause (2), you will see it runs thus:

"The master, owner or agent of a pilgrim ship shall be liable to a fine not exceeding Rs. .... for every pilgrim who has suffered detriment by the omission of the master to comply with the provisions of sub-section (1)".

and sub-section (1) is about the supply of food and pure water. So here, one more act of leniency has been shown to Messrs. Turner, Morrison and Co. There is no mention of any excuse, but Government have given this opportunity to the Turner Morrison and Co. They may say that they have taken these words from section 166 as it is here "without reasonable excuse", but I say, when they were going to amend this section, it was their duty to omit these words if they wanted to bring this legislation in accord with the Straits Settlement Ordinance. Here, I want to know from you, Sir, whether I shall be allowed to speak on my amendment on clause 11 or not, because, if I am not allowed there, I must explain my point of view here. May I know your ruling, Sir?

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Chair cannot give a ruling in anticipation.

**Mr. M. Maswood Ahmad:** Very well, Sir. Here, I restrict myself to this point that this clause should be omitted; and if this clause will be omitted, it will happen that the original clause 106 will stand and the original clause 106, will read thus:

"If the master . . . . of a pilgrim ship without reasonable cause, the burden of proving which shall lie upon him, omits to supply to any passenger of their ship the prescribed allowance of food, fuel and water as required. . . . he shall be liable to a fine which may extend to Rs. 20 . . . ."

So, Sir, by omitting this clause, there will be no defect in this Bill, because this is for supplying fuel to the pilgrims, and just as I have said, fuel is required for cooking purposes only. Now, one point was raised by my Honourable friend, the enthusiastic co-operator—I say that, because I was called a non-co-operator—who said that on page 12 this matter was discussed by the Standing Haj Committee. The statement was quite incorrect. I say, Sir, that the question of supplying fuel was not discussed in the Standing Haj Committee at all. I will read the actual words:

"All the non-official members of the Committee expressed themselves in favour of cooked food being supplied, but all of them felt that the change should be brought about only gradually."

There is absolutely no mention of fuel and I insist that fuel should be supplied to the pilgrims. The question of cooked or uncooked food does not come under this clause. I am speaking of the fuel question only at this moment. I say that fuel must be supplied to the pilgrims, because they require it for heating their water for bath, for preparing their medicines and for many other purposes and not for the purpose of cooking only. I propose that there should be two kinds of tickets, one with cooked food and one without food, but that question I will discuss later on. With these words, Sir, I move that clause 4 of the Bill be omitted.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Amendment moved:

“ That clause 4 of the Bill be omitted.”

**Mr. G. Morgan** (Bengal: European): Sir, I support this amendment for the same reasons that I opposed the consideration of the Bill and moved other amendments. My position is a very unfortunate one, because the responsibility and the onus for carrying out all obligations under these wretched clauses is going to fall on the steamer company. Sir, some of my friends have been rather hard on the steamer company. They seem to think that the steamer company does all it can to make the pilgrim's journey a nightmare. That is not the case. The reason why I have put up these objections is that on going into the matter during the past year I felt that it was almost impossible to carry out the system of the supply of cooked food as is suggested in the Bill. If any one could put up a practical proposal, there is not the slightest doubt—and, I can guarantee this on behalf of the steamer company—that it would be most carefully considered in every respect. There is no question of the steamer company saying: We will not do this; we do not care a button about the pilgrims and we will charge as high a fare as we can. My Honourable friend, Sir Abdur Rahim, said that they had a monopoly and they could more or less do what they like. Although it is true that at the present moment the Mogul Line is the only steamship company carrying on this trade, there were two other companies in existence and they were not able to carry on. Evidently there was not enough capital behind them to enable them to carry on. That is purely a business proposition. You cannot blame one company because another company has failed.

**Mr. S. O. Mitra**: Did they cut down their rates?

**Mr. G. Morgan**: That I do not know. If it was so, that was all to the benefit of the people whom my Honourable friend, Sir Abdur Rahim, is championing. Although my Honourable friend rather brushed it on one side as being a mere nothing, I can tell him that there are considerable difficulties about structural changes in the ship. I have been through the plans of the ship myself and that is why I am speaking in support of this amendment. If anyone, however, can find a way out of this difficulty, no one would be more pleased than the steamer company. Sir, you must remember that cement platforms are set aside for cooking purposes, where the people do their own cooking. Now, if the steamer company is to do the cooking and the service for all these pilgrims, they will have to carry a large complement of cooks, servants, etc. Surely they cannot treat the pilgrims as servants. According to the Protector of Pilgrims in Bombay,

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the company will have to engage many different kinds of servants, and those servants will have to be accommodated on board. There will be another 200 or 300 people in connection with the cooking and service. We have been going into figures and I am giving what appears to be necessary. Perhaps we may get some super-servants who may be able to do more work than ordinary servants, but the fact remains that accommodation will have to be found for these extra people. That would necessitate a reference probably to the Board of Trade with regard to new super-structures, which might or might not be sanctioned.

There is one other point which my Honourable friend mentioned. My Honourable friend, Sir Abdur Rahim, said that pilgrimage had proceeded by leaps and bounds, but figures in my possession for the years 1919 to 1932 certainly do not show that the pilgrimage had been going up by leaps and bounds.

**Mr. S. C. Mitra:** Will you kindly give us the figures?

**Mr. G. Morgan:** They are as follows:

1919	...	...	...	12,094
1920	...	...	...	21,770
1921	...	...	...	10,750
1922	...	...	...	12,417
1923	...	...	...	24,045
1924	...	...	...	17,790
1925	...	...	...	2,335
1926	...	...	...	24,128
1927	...	...	...	36,074
1928	...	...	...	20,953
1929	...	...	...	19,636
1930	...	...	...	15,097
1931	...	...	...	9,252
1932	...	...	...	12,600

**Sir Abdur Rahim:** When did the other company cease to operate?

**Mr. G. Morgan:** I do not remember the actual date.

**Maulvi Muhammad Shafee Daoodi:** It ceased to operate after 1925.

**Mr. G. Morgan:** Sir, I will not take up any more of the time of the House. We have heard all sorts of arguments for and against these allowances of cooked and uncooked food and so many religious matters seem to have entered into it that I cannot criticise all the points raised. I have tried to put before the House the great difficulties that are involved from the point of view of the steamer company. All that I wish to repeat at

this stage is, that if these amendments are lost, I would like the Government to say how and when they propose to go into the question of the rules and regulations. Sir, I trust Government will give it ample time and a thorough and most careful consideration. It is not a matter that can be done by a wave of the hand. These catering arrangements for so many classes of people are very difficult, and there is not the slightest doubt, and which has been freely acknowledged by all speakers that there is great difficulty in supplying the food which these people require, and want. Sir, it is purely a practical difficulty of catering. I hope Government will be very careful in issuing the rules and regulations under any statutory obligation, that they will look at it from a purely practical point of view, so that the pilgrims will get what they pay for and the steamer company will be in a position to carry out their obligations and not befaced with what is impracticable. That is what I am afraid of. Sir, that there will be trouble I am perfectly certain, and Government will have to handle this question of rules and regulations in a very careful and sympathetic manner from both points of view, *viz.*, the pilgrims and the steamer company. Sir, I support the amendment.

**Sir Muhammad Yakub:** Sir, it is my misfortune that I have got to support the amendment moved by my friend, Mr. Maswood Ahmad. Even after hearing the arguments advanced by my friends, Maulana Shafec Daoodi and Sir Abdur Rahim, I am not satisfied that the provision of making cooked food compulsory for the pilgrims would be in any way advantageous to the pilgrims or give them any convenience. The objections which have been raised on this side, as regards the difficulties of catering and cooking and supplying food, have not been replied to. On the other hand, a great deal of stress has been laid on the filthy conditions on board the pilgrim ship. Sir, cooking will have to be done in any case, whether by the company or by the pilgrims themselves. Kitchens will have to be provided for, whether the food is cooked by the servants of the pilgrim, or the pilgrim himself, or by the servants of the company. As regards cleanliness it is extremely difficult to keep these kitchens where you cook all sorts of Indian food clean. If there is to be uncleanness, where is the difference in making it compulsory for the pilgrim to have cooked food or allowing them kitchens on board the ship, and making it compulsory for them not to cook at any other place except the kitchen provided for them. I do not think it will add in any way to the cleanliness if food is supplied by the company. Now, besides the difficulties which have been pointed out by so many Honourable Members,—and none of them has been answered as yet,—there is one more difficulty and that is about the food of *purdah* women. Who will supply food on board the ship to *purdah* women? Will you have men servants to take food to the *purdah* women? None of the *purdah* women would like to be supplied with food by men servants.

**An Honourable Member:** There will be female servants of the company.

**Sir Muhammad Yakub:** If you ask the company to supply one set of men servants and another set of women servants, I doubt if it will be possible for them to do so. Even in the houses of rich men, my experience is that, it is very difficult to find female servants. It is very well in theory, but practically I think you will find it very difficult to find Muslim female servants to supply food to the *purdah* women. Where will you have a

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separate dining hall for them? The kind of Indian ladies who go to the Haj have the *burqa* and they are very strict about *purdah* and they will not sit with their faces open in the dining hall reserved for men. You do not give us any reply to these difficulties. It means that you have got to have two dining halls, two sets of servants, and so on. I do not deny that it would be a perfect thing if you could have a class of pilgrims who would be able to go into the dining hall, but I think it is impossible to get that perfection in the case of pilgrims. Sir, an Honourable Member of this House has posed as a great commentator of the Quran or as a theologian. I strongly protest against the Quran being brought into this House and its use by people who have got a shallow knowledge of religion and try to pose as Jalalain or Bezavi in this House. I know that Haj is compulsory for those who possess means, but then do you want to do away with *Sunnat Wajib aur Mustajib*? The Haj is a meritorious and pious duty for every Mussalman, whether possessed of means or not? If you want to make the Haj available only for those people who have got money, it will mean that pilgrimage will be stopped altogether. Truly has Akbar said:

“ Council men bahut Saiyad,  
Musjid me fakat Jumman ”

“ ‘ Many Syyads ’ (that is men of high class) you will find in the councils, but the poor jumman only attends the mosque.”

Will the Honourable Members who claim to be monied men or religious men say how many Haj they have performed or how many people they have sent to perform the Haj on their behalf? It is a mockery of religion and should be stopped. With these words, I support the amendment.

**Mr. Uppi Saheb Bahadur:** Sir, I rise to support the motion and, at the same time, to point out the danger of agreeing to this clause. This clause requires the Steam Navigation Company to make certain radical changes in their ships. Suppose the Turner Morrison and Company or other shipping companies refuse to make those changes or to carry pilgrims on those conditions, the result will be that next year there may not be any ships to carry pilgrims at all. And if anybody tries to have steamers to carry passengers, they will also have to make such structural changes in the ships which will mean that such ships will not be of use for any other purpose. This is a great danger and, if we pass this clause, we will be playing into the hands of Messrs. Turner, Morrison or any other shipping company. They may refuse to invest such a large amount of money on the steamers just for a few months. After the Haj period is over, these steamers are put into some other lines and for other trips. By the structural changes these steamers may not be useful for

1 P.M. their other purposes and, under those conditions, it is quite possible that the Steam Navigation Companies may refuse to make such structural changes and carry pilgrims. Therefore, we have to be very careful in passing this clause. Here is the representative of the Steam Navigation Company stating us the difficulties that they will have and, if we pass this Bill, and if they refuse to make structural changes, they will not be able to run steamers on this line for purpose of carrying pilgrims under the Act, and then how shall we go for the Haj? Does our friend, Maulvi Shafee Daoodi, or Nawab Ahmad Nawaz Khan, want us to prevent entirely from undertaking pilgrimage in this way? This is a very serious consideration, and I ask the House also to take it seriously. I support the motion.

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** I thought, Sir, that after the speech made by the Leader of the Independent Party, it was hardly necessary for any one on behalf of Government to take the time of this House in making another speech; but I find that some Members feel that Government's not taking part in the debate means that Government do not care to meet the arguments that they think they have adduced in support of their objections against this provision. It is for that reason only that I have intervened in the debate even at this late stage. Therefore, I request that the House will forgive me if what I say does not contain anything very new or, to put it differently, if I repeat what those Honourable Members, who have spoken before me, have already said.

The first point that I wish the House to bear in mind, Sir, is this. This is not a proposal which has been brought forward by Government on their own responsibility, but it is a proposal which has been brought forward by Government on the recommendations of a Committee of this House which was non-official and elected and Muslim, of which the Chairman alone was a non-Muslim official. The non-official elected Muslims of this Committee were not the Westernised Muslims who have or who may be alleged to have scanty respect for the orthodox. On the other hand, Government have the support of those who are either extremists in orthodoxy or very near it. The only member of the Haj Inquiry Committee who could be called Westernised was one who is no longer a Member of this Assembly—I am referring to Mr. Fazl Ibrahim Rahimtoola. Others were either extremely orthodox or next door to it. No one, Sir, will challenge my statement who knows the Honourable Member from Madras, Saiyid Murtuza Saheb, no one will challenge my statement who knows the Honourable Member from Bengal, Haji Choudhury Muhammad Ismail Khan—he is also a Haji by the way—and no one will challenge my statement who knows Maulana Shafee Daoodi. The Committee had a representative from the Punjab hailing from Multan, the home of orthodoxy and the place which has had the privilege of contributing a great deal to literature on Islamic Theology in the past during the Mughal period. Therefore, Sir, the House will notice that the support the Government have relied upon is not the support of men who have been caught by the Westernised system of education whether hailing from Aligarh or from Western Universities, but of men who belong to the orthodox class. They may be men who are well-off, but cannot be said to be millionaires who do not know the condition of the poor—I believe, Sir, I am not doing injustice to the Honourable Members who have opposed this measure of reform, and I say that none of them can claim to be more orthodox than the men I have mentioned. The opposition has been led by my friend, Sir Muhammad Yakub . . .

**Sir Muhammad Yakub:** Not by me, but by Maulana Haji Wajihuddin and Mr. Maswood Ahmad.

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** I beg your pardon. Technically, Sir, the motion on which my friend, Sir Muhammad Yakub, made an eloquent speech has not been initiated by him and he was only supporting Mr. Morgan. I do not in any way question my friend's right to entertain any opinions he likes on measures of reform.

[Khan Bahadur Mian Sir Fuzl-i-Husnain.]

This is a matter of personal conviction, irrespective of whether he hails from what in India it was hoped at one time would be the fountain head of reform movement, wherefrom reformers were expected to emerge, I mean Aligarh. If the considerations to which he has invited the attention of the House yesterday and today were something new, one might have felt impressed; but does he really think that these are things that have been brought forward for the first time and are to be taken seriously? Sir, I can remember in my school days having read in *Tahzib-ul-Ikhlaq* of Sir Sayid Ahmad's time, a description of these very objections that he has stressed in this House, having been put into the mouth of his critic whom he calls most shocking obscurantist and terrible obstructionist in the way of the progress and advance of Muslims in India. The Honourable Member has talked a lot about the poor and the purity of utensils, etc., whether the food is cooked in a particular way or not. These poor Muslims, he urges, want to know whether the utensils have been washed all right or not. Is he not using, Sir, the word "poor" for himself? Does he not understand that the poor people—poor people, Sir, are poor people—unfortunately do not admit either of distinctions of country or even distinctions of religion? The very poor people, Sir, know no such distinction. They are not the people who can afford to say "Oh, we are not used to this thing and things, and we are not used to this food". The poor people eat when they get food, when they feel that they cannot really get on any longer without food. These are the people with whom apparently my Honourable friend has not had the opportunity of being acquainted. His criticism today about the *purdah* ladies was about the limit of futile criticism in which one can indulge against a reform proposal. What are these *purdah* ladies of Sir Muhammad Yakub doing nowadays? Am I to understand that each *purdah* lady has a woman servant carrying her *chula* once or twice a day, first to the ship kitchen bringing her coal or fuel, then planting that *chula* in the centre or perhaps a corner of the deck then goes to the top to wash her *degchi*, cooks her own meal, washes her *degchi*, gets her rations? No, she does it all herself, and there are no sets of female servants there to bring her this fuel and water and supply of uncooked rations. He urges the absence of women servants as a conclusive argument against the reform. Again, he imagines that these poor deck people have luxurious dining halls as are provided for Members of the Assembly or for those who go to big conferences. Nothing of the kind. (Interruption.) My friend interrupts: "What is the improvement?" If his idea is that unless the Indian people can be supplied with means to attend in dining halls for their meals, there is no improvement, then I am afraid he will have to die without anywhere near being hundreds of miles of that reform. The very notion of having refreshment halls for the poor of India enters the mind of only those who do not know what poverty is and do not know the economic conditions in which Indian masses are at present living. Therefore, I assure you that the object of this reform is nothing else except to afford a great measure of sanitary and hygienic comforts and conveniences to a large number of pilgrims. It does not aspire to do very much, but it does aspire to give relief from a large number of inconveniences from which pilgrims suffer at present. It has been said: "You are going to charge for food: what will happen to these poor people?" "To whom will the millionaires who are on the pilgrim ship give their charity? They must give charity to somebody

and if everybody has his own food there through his ticket, what will happen to the charitable impulse of the rich?" Am I to understand that the pilgrims consist of but two classes, millionaires and beggars? Is there nothing in between? I assure you that there may be one or two per cent pilgrims who are millionaires: there may be three or four per cent who are beggars; but there is a large body consisting of 95 per cent of the pilgrims who are neither millionaires nor beggars, but just simple, honest, barely well-to-do Muslims inspired by one desire, to discharge their Islamic obligation in this connection. Are these 95 per cent of the people entirely to be ignored? As to the millionaires, may I assure them through the opposition that they will have no difficulty in satisfying their craving for giving away money in charity? This three or four per cent of the pilgrims, if they are really beggars, as I am led by my Honourable friends in the opposition to believe, they will find means during the 12 days of the journey on this pilgrimage to extract money out of the millionaires under one pretext or another. So I assure you that the millionaire pilgrim is safe: he will have plenty of scope to indulge in generosity and charity. The scope of activity of the beggar in case he does exist—I am not prepared to admit that he does exist in such large numbers as is alleged to be the case by some members opposite—he will have plenty of scope there and elsewhere to indulge in his evil ways. But I have not the least doubt that the reform is really one badly needed. Government might have hesitated for a long time to enter upon that reform if it had not the support, the large hearted enlightened support, of Members of this House and realised that those Members do not belong to the Westernised sections of the Muslims, but belong to the orthodox classes and who have been actuated by one desire and one desire alone to serve the best interest of pilgrims. The Muslim masses are not as ignorant as in the past and it is hoped, they will appreciate that the Haj Inquiry Committee has rendered great service to the community.

One word more. I am asked what will happen if the shipping companies refuse to carry out what the Statute could ask them to do. Curious as it may appear, this serious question has been seriously propounded today by the Honourable Member from Madras, Mr. Uppi Saheb Bahadur. Yesterday, if I understood him aright, his allegation was that Government were devising means and methods of putting money into the pockets of the shipping companies. That was the charge against the Government. I must be a wonderful person if I can through my ill-deeds one day rob the poor pilgrims to enrich the company and the next day proceed to impoverish and ruin that company. I know that that characteristic is often supposed to be possessed by great autocratic monarchs of Asia. I do not claim to be one, nor do I aspire to attain that dignity. I assure you that in our schemes of reforms connected with pilgrimage traffic shipping company is a very important factor. We believe that the best interests of shipping companies and the best interests of the pilgrims can be reconciled and if shipping companies would be satisfied with fair profits out of pilgrim traffic, the pilgrims will not grudge them the profits that they make, and Government are there not to help the companies to make undue profits nor to let the pilgrims get things out of the company which tend to impoverish the company, but to see that fair play reigns.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.



The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) in the Chair.

**Mr. Abdul Matin Chaudhury** (Assam: Muhammadan): Sir, the Honourable the Member for Education emphasised in his speech that the prohibition against the cooking of food on board the ship has been unanimously recommended by the Haj Inquiry Committee. I am well aware that it received the unanimous recommendation of the Committee, but I submit that they were unanimously wrong in their recommendation. Arguing from very sound premises, they came to the most erroneous conclusion. The case against prohibition could not have been better put than has been done by the Haj Inquiry Committee. I shall read out from the Report the relevant passages . . . . .

**Maulvi Muhammad Shafee Daoodi:** What page please?

**Mr. Abdul Matin Chaudhury:** Page 93:

"In our opinion, there would be little difficulty in arranging for all pilgrims food from an eating house on board, if the conditions of the Indian pilgrim traffic in any way resembled those of the Netherlands East Indies traffic. But that resemblance does not at present exist. Instead of being all of one class, as the Javanese pilgrims are, the pilgrims from India are not only drawn, as has already been stated, from the different provinces of India itself, the inhabitants of which are not used to the same kind of food, but also include Persians, Afghans, Bokarans, Tibetans, Chinese, Burmese and Malays, and, under existing conditions, any attempt to supply all the varieties of food to which each of these different classes is accustomed would be likely to prove a failure."

Then, again, they say:

"Under existing conditions many experienced witnesses have, while admitting the desirability of the proposed innovation, expressed the opinion that the difficulties are insuperable, or at any rate so great that all that is possible for the present is to make further experiments with the "hotel" system, efforts being made by strict supervision of the management of the "hotel" and even, if necessary, by subsidising them, to make them more popular and satisfactory, with the ultimate object of introducing arrangements similar to those in force in the case of Javanese pilgrims."

Now, Sir, after saying that this experiment may lead to failure, after saying that the expert opinion is that the difficulties are insurmountable, they come to the unanimous decision that this system should be adopted, and they expect the House to accept that recommendation simply because it is unanimous. All the speakers who have preceded me have agreed that this will increase the cost of pilgrimage. Sir, I come from a part of the province which sends annually a large number of poorer class of pilgrims, and knowing as I do the difficulties they encounter in collecting the barest minimum for their pilgrimage expenses,—in some cases it means a life time's savings,—I feel it would be criminal if I were to lend my support to any proposal that would lead to increase the cost of pilgrimage even by a farthing. This Committee was appointed for alleviating the sufferings of the pilgrims, but their recommendations, if accepted, will aggravate their difficulties. I am reminded in this connection of a line from Poet Chandidas which is to the effect that "he prayed for rain, but he got the thunderbolt". The poorer people wanted relief, and they are having relief with a vengeance in the form of extra expenditure. I think, Sir, the

Muslim community, it not very much appreciative of the favour that is being done to them, and the Government would have been well advised if they had not inflicted on this community this unwanted beneficence.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

“That clause 4 of the Bill be omitted.”

The motion was negatived.

**Mr. M. Maswood Ahmad:** Sir, I move:

“That in clause 4 (c) of the Bill, after the word ‘food’ the word ‘fuel’ be inserted.”

Sir, if Government insist to introduce the system of supplying cooked food to pilgrims on board the ship, we can agree to the proposal only if there is option given of supplying the pilgrims with fuel as well.

If Government really desire to effect any improvement in the present condition of things, I would ask them not to be hasty. A man should not walk at mail train speed at the risk of his life.

An Honourable Member said that this measure was intended to effect a reform in the Haj, but I want to inform the Government that our religion is perfect, and it does not require any kind of reform at all . . . . .

**Kunwar Hajee Ismail Ali Khan:** Nobody is allowed to interfere with religion.

**Mr. M. Maswood Ahmad:** I am replying to the point which has been raised by an Honourable Member.

Another Honourable Member quoted something from the Holy Koran. I am not going to quote the holy book, but I want to point out that though Haj is compulsory only for those persons who have got the *Istitaat*, but what is *Istitaat*? By this measure Government are increasing the *Istitaat*. If a man can go to the Haj on Rs. 200, he must have Rs. 200 with him, and Rs. 200 will be the *Istitaat*. If Government impose a taxation of Rs. 1,000 on each pilgrim, he should have that additional amount as well with him. That means that Government will be increasing the *Istitaat* from Rs. 200 to Rs. 1,200. By means of this amendment in the existing Act Government will increase the *Istitaat* at least to Rs. 55 for sick passengers, which is objectionable.

I want to show the rates from a communiqué published by Government in the *Star of India*:

“The Government of India have received information, etc.”,

and then coming to the question of freight from Bombay to Karachi and from Karachi to Jeddah in the communiqué mention is made of freights with food and without food. Some of my friends feel that it will be 12 annas per day or perhaps eight annas a day, but, Sir, if you will go through the menu, you will find that they have provided *Halva* and *Kachori* : . . .

**Maulvi Muhammad Shafee Daoodi:** Menu by whom?

**Mr. M. Maswood Ahmad:** The menu proposed by the different Governments and the Government of India will certainly follow the recommendations made by the Governments of Bengal and Bombay in this matter. . . .

**Mr. G. S. Bajpai** (Secretary, Department of Education, Health and Lands): On a point of explanation, Sir, if I may intervene for a moment. My Honourable friend is reading from recommendations which Local Governments have made. They are not recommendations which the Government of India have adopted. The intention of the Government of India is, in consultation with the Standing Haj Committee of this House, to work out a menu which will not cost more than one rupee a day.

**Mr. M. Maswood Ahmad:** I say the Turner Morrison and Company have advised them and they have issued this Government of India communiqué. I am quoting from that From Bombay or Karachi without food for single journey they charge Rs. 110 for deck passengers and with food for single journey Rs. 140, which comes to Rs. 30.

**Mr. G. S. Bajpai:** Again, Sir, on a point of explanation.

**Mr. M. Maswood Ahmad:** My Honourable friend may explain this in his speech afterwards.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): When the Honourable Member is under a misapprehension about the attitude of the Government, it is better that the Honourable Member for Government explains the position.

**Mr. G. S. Bajpai:** What I wanted to explain was that the figure which the Honourable Member is quoting is the figure charged at the present moment by the restaurants, when there is no system really of compulsory feeding whatever.

**Mr. M. Maswood Ahmad:** Government have issued a communiqué and in that I find these rates. Either the Government of India have received these rates from the restaurants or they have received them from the Turner Morrison and Company or from any one else. I am quoting from their communiqué and I find that I am correct.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. If the Chair has understood this discussion, the rates quoted by the Honourable Member apply to the existing conditions where the supply of food by shipping companies is not compulsory. If the Bill is passed, then it is the intention of Government to prepare such a menu as will not cost more than one rupee per day. There is no use in the Honourable Member wasting the time of the House.

**Mr. M. Maswood Ahmad:** I am very glad to know that after passing this Bill the Government of India want to control the price of food as well and they intend to restrict it to one rupee per day for the deck passengers. But, Sir, food of that menu at one rupee per day will be of no use.

Further, the cheap food prepared by restaurants will be injurious to the health of the pilgrims, and Government want to remove the insanitary condition. Government should be consistent in their policy and honest too. When Government want that they should be in a healthy condition, they must take the responsibility for their health. At one rupee a day it is impossible for the company to supply the food according to the menu proposed by Local Governments, and the result will be that Government will be forced to change that rate or, as suggested by Uppi Saheb Bahadur, the Turner Morrison and Company will come and say: "We are not in a position to supply food at one rupee per day and if Government are insisting on that, we are not going to run the ships".

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Individual passengers spend more than one rupee per day now.

**Mr. M. Maswood Ahmad:** No, Sir, they spend much less. At present they cook their food and they pay little and get good food. I know there is a difference of opinion. At present there are two systems for Assembly Members, one is the Western Hostel and the other is the orthodox quarter system. All the Members of this House are not willing to live in the Western Hostel, because food is supplied by a company. If you ask our Leader, Sir Abdur Rahim, he will certainly say that living in Western Hostel is very nice. Others living in the Grand Hotel or in the Cecil Hotel will say the same thing, that they get nice dishes on a nice table, but there are Members who want the food cooked by their own servants. Apart from money, there is the question of taste and comfort. When this is so in the case of Members of this House, why are Government forcing this food prepared by restaurants on the pilgrims? If Government are *anxious*, they can run a restaurant in Delhi and feed all the poor men at one rupee per day. May I ask, Sir, what will they do for the poor pilgrims at Jeddah, Mecca and Medina?

**Maulvi Muhammad Shafee Daoodi:** May I know if my friend wants to increase the charges?

**Mr. M. Maswood Ahmad:** No, Sir. It is Maulvi Sahib's view and not mine. I suggest that this system should be totally abolished. I want that pilgrims should get better food on a smaller amount of money prepared by them according to their religious feelings. What happens at present is that they take their own flour from homes, the ghee from their own cows and they prepare their food at a cheap rate.

**Kunwar Hajee Ismail Ali Khan:** When travelling, they are begging from others.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. Will the Honourable Member tell the Chair how all this is relevant to the particular amendment he is moving now? The amendment is that in clause 4(c) of the Bill after the word "food" the word "fuel" be inserted.

**Mr. M. Maswood Ahmad:** I am sorry to say that Government have mixed the two issues of "food and "fuel" together. The point here is that

[Mr. M. Maswood Ahmad.]

those who do not want cooked food should have the option of getting fuel and being allowed to make their own arrangements, and in this way it is relevant.

There is absolutely no question of begging at the ship. A well-to-do person may purchase *pulao*, *korma* and *kalia* and other nice things in a large quantity. He uses a small portion and gives the rest to his servants. After the passing of this Bill, Government will force all the well-to-do persons to spend more on their servants. This is very objectionable. Luckily I have with me the pamphlet supplied by the Department in which the opinions of the different Governments are mentioned. I will not quote all of them. I see that the House is impatient. I only say that Mr. Khalib of the Nimazi line is opposed to the provision of cooked food.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. Does the Chair understand the position to be this, that, by passing clause 2, the House has agreed that shipping companies must compulsorily provide food for passengers?

**Mr. G. S. Bajpai:** The position is that clauses 2, 3 and 4 go together in order to complete that intention.

**Mr. M. Maswood Ahmad:** Similarly the Bengal Government and Messrs. Turner Morrison and Company have expressed their opinion against the measure. Now, I come to Bombay and the Bengal Chamber of Commerce. I am only giving one or two lines from each. The Bombay and the Bengal Chamber of Commerce also oppose the recommendation, and several other important bodies such as the Karachi Chamber of Commerce and the Karachi Port Trust have pointed out serious difficulties in giving effect to it. The Government of Bombay make the following remarks. That Government, it can certainly be said, possess more experience in this matter than the Central Government, because they are on the spot. They say:

“The Government of Bombay consider that it would be most difficult, if not impossible, to put the recommendation made in this sub-paragraph into practice and the best course would be to allow the pilgrims to make their own arrangements for food by bringing their own supplies on board or purchasing them on board.”

Then, Sir, the Government of India also say:

“The Government of Bombay's opinion must carry great weight and there are difficulties undoubtedly in the way of accepting the recommendations.”

What is the trouble? The Haj Inquiry Committee also put forward arguments which, I claim, are in my favour. They say: “this is bad, this is impracticable, this is not good”, but, in the end, they come to a different conclusion. Here the Government of India themselves admit that this recommendation of the Haj Inquiry Committee is unacceptable and unworkable and that it would be hard on the pilgrims, but still, in spite of all these arguments to the contrary, they want to pursue this system. They say that even if the system does cause the pilgrims some inconvenience or is not popular with them, they would soon become accustomed to the new system. What an absurd conclusion! They say that these are the difficulties; yet they say, they will be accustomed to all these things. Certainly, they will be accustomed to these and many more

things. But there is no question of being accustomed because 90 per cent of pilgrims go to pilgrimage once in life. It is very unjust and unfair to drag the pilgrims into such hardships.

I admit it is very difficult to win in this House, but still I shall do my duty and I shall express the views, not only of my constituency, but, I hope, I am expressing the views of all Mussalmans in India. I suggested to the Government several times that if they had the slightest doubt in their minds on this point, the best thing for them would be not to rush through this legislation and that they must circulate the Bill for ascertaining Muslim views on this point, but they did not accept that proposal. This amendment will mean that pilgrims will have the option either of cooking their own food or getting fuel from the company and cooking their own food. So this amendment will certainly be a step in advance towards improvement and I would request the Government to accept it. Sir, I move.

**Shaikh Sadiq Hasan** (East Central Punjab: Muhammadan): Sir, one man's food is another man's poison. Well, the House rejected the amendment moved by my Honourable friend, Mr. Morgan, but now the question is whether fuel should be allowed to these pilgrims or not. There is quite a large number of people for whom it is impossible, Sir, to take food which is in vogue in other parts of the country. Take the question of the four provinces which are adjacent to each other: the Punjab, Delhi, the North-West Frontier Province and Kashmir. Well, Sir, I am a Punjabi and I may tell you this thing that it is impossible for a Punjabi to take the food which the Kashmiri takes. The Kashmiris are very fond of rice and *Karam-ka-Sag*, but, on the other hand, if rice and *Karam-ka-Sag* is served to the Punjabi, he will have his stomach upset. In the same way, for a Kashmiri to eat *Dal* and *Roti* is an impossibility. As for myself . . . .

**Kunwar Hajee Ismail Ali Khan**: On a point of order, Sir. Is it in order to discuss the matter of different kinds of food on this particular amendment?

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. Mr. Sadiq Hasan.

**Shaikh Sadiq Hasan**: Sir, I am a Punjabi, and Delhi is the next province adjacent to the Punjab. I may tell you that if one day I have the misfortune to eat Delhi food with plenty of chillies, I repent having done so for the whole night, because it is so hot and so strong as it upsets my stomach. My Honourable friend, Sir Abdur Rahim, was thinking so much about the hygienic conditions on board the steamer, but the hygienic conditions inside the body should be given a thought to (Hear, hear), and I do say that while it may no doubt be considered to fulfil hygienic conditions on board the steamer that cooked food is to be taken compulsorily, my impression is that on the other hand the very digestion of the pilgrims will get deranged. I would, furthermore, say, Sir, that it is not only this, but it would also make the pilgrimage rather very costly. My Leader is rather mistaken when he thinks that it costs Rs. 600 for a pilgrim to go and come back from Mecca. That is the official estimate, but, as a matter of fact, poor people do it, as I know it for certain for far less.

**An Honourable Member:** For how much?

**Shaikh Sadiq Hasan:** Some people, I have been told, do not spend more than Rs. 400. I do not know how far that is correct.

**Mr. Amar Nath Dutt** (Burdwan Division: Non-Muhammadan Rural): They do it even for Rs. 150 sometimes in Bengal.

**Shaikh Sadiq Hasan:** Sir, if there is fire, is it right and proper to throw fuel on to it or to throw water over it? I would say that the pilgrimage should not be made more costly. The duty of every Mussalman is to see that the cost of the pilgrimage becomes less and less. My Honourable friend, Major Nawab Ahmad Nawaz Khan, thinks the Government are functioning as messenger of God. Well, he may take the Government as the Deity himself. That is neither here nor there, but we have to see how to help these poor people. For those people who do not understand the feelings of the poor pilgrims, it is impossible to imagine their fervour when they go to Mecca. My friend, Sir Muhammad Yakub, truly said that there is a great difference between *farz* and *sunnat*. Now, although it may not be a compulsory duty for a poor Muhammadan to go to the Haj, there is no doubt that it is considered by every poor man a very good deed to do so. So we Mussalmans sitting here should do our level best—and I say, not only Mussalmans, but I would appeal to my Hindu and European friends as well, of which latter I do not find many in the House.

**Mr. Amar Nath Dutt:** One is there

**Shaikh Sadiq Hasan:** I would appeal to all of them that they should not consider it a question purely for the Mussalmans. It is not like the Untouchability Bill in which the Mussalmans have got no interest, because after all there is the question of orthodoxy and unorthodoxy. But this is a question which concerns all the Mussalmans. Some of my friends may think that Rs. 30 or Rs. 40 do not make much of a difference to a pilgrim, but I do consider that the amount which comes to about 10 per cent of the whole cost of the voyage does make a great difference to these people.

Then, Sir, there is a third point. It is a question of the service. Most of us who have gone to Europe know how many servants are required to serve on board the ship when the people are dining and how much grumbling goes on even if you have half the number of stewards for those who are dining there. I generally find my European friends very much grumbling if the food is not served properly. There will be about 2,000 passengers on board the ship and how many men will these companies be able to provide for service? I will be very glad if they could provide a very large number of servants, but I am positive that the company will not be able to do so. I do not say it is impossible, but it will certainly cut down their profits enormously and so they will not provide sufficient servants and the result will be trouble amongst the pilgrims. The safety of the ship will not be in danger as my Honourable friend, Mr. Morgan, was pleased to observe, because the Captain and

officers have got revolvers and arms, but I do think that the safety of the passengers would be in danger. There is bound to be trouble, because most of these pilgrims are not highly educated and cultured, and naturally when they do not get their proper food at proper time, there will be some row and then it will not be the safety of the ship which will be in danger, but there will be a *lathi* charge such as was denied by the Honourable the Home Member the other day, but asserted by the Muslim Members.

I do not say for a moment that the Government are actuated by anti-Pan-Islamic ideas in this matter. All foreign Governments are bound to be anti-Pan-Islamic, but of course this has nothing to do with Pan-Islamism. Suppose the Government were against Pan-Islamism, certainly Sir Abdur Rahim and Maulvi Murtuza Sahib Bahadur and others will not be against it. But what I do feel is that they have made a mistake and a grave error of judgment to which all human beings are liable. With these few words, Sir, I support this amendment.

**Mr. Muhammad Muazzam Sahib Bahadur** (North Madras: Muhammadan): Sir, I have great pleasure in supporting the amendment moved by my friend, Mr. Maswood Ahmad, and I endorse every word that has fallen from the last speaker except as regards the effect which food or fuel may have on any activity against Pan-Islamism.

Sir, the main ground on which Government and the Select Committee base their decision is that the steamship acquires a very insanitary and filthy condition if cooking is allowed on it. In that case, I would suggest that, instead of employing hundreds of men to serve thousands of pilgrims at a time three times during the day, is it not advisable, I ask, if those servants should be asked to keep the steamer clean by washing it three times a day or even half a dozen times a day? We might have to employ a batch of servants to keep the steamer clean every half an hour and have also a Sanitary Inspector on board the ship to have it cleaned. If you want to levy an extra charge for purposes of cleaning, you might well levy a charge of about Rs. 2 per passenger to and fro. That would bring to the Company, supposing it carried about 1,500 passengers, a sum of Rs. 3,000. Employ that Rs. 3,000 for cleaning purposes. But why do you tell the pilgrims: "No, you must have our food." I certainly object to the steamer company providing food for the pilgrims. Although my esteemed and revered friend, the Honourable Mian Sir Fazl-i-Husain, awarded certificates of orthodoxy to my Honourable friends, Maulvi Shafee Daoodi and Maulvi Syed Murtuza, and one other Member, Maulvi Rajan Bakhsh Shah, *in absentia*. . . .

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** You apparently do not know him; he is not absent.

**Mr. Muhammad Muazzam Sahib Bahadur:** At that time he was absent. When the certificate was granted, he was not here. Sir, the Honourable Sir Fazl-i-Husain sought to base his arguments on the fact that the Haj Inquiry Committee was composed mainly of people who were considered to be very orthodox. I do not for a moment wish to controvert that argument. But I wish to call your attention to the conclusions at which this very Committee has arrived (page 181, para. 272



[Mr. Muhammad Muazzam Sahib Bahadur.]

of their Report) and if I read to the House about four lines of that paragraph, then it will be clear that it has been arrived at against the weight of the evidence recorded. This is how it runs:

"Certain of the recommendations we have made such as that for the provision of cooked rations to a pilgrim by the steamship companies may appear to be somewhat revolutionary and against the weight of the evidence recorded. But we believe that they will be welcome by enlightened Muslim opinion and that, if accepted by Government, they will, though distasteful to some individuals, prove of lasting benefit to the Indian pilgrim as a whole."

So, Sir, it is conceded that this opinion is arrived at against the weight of the evidence tendered before the Committee. In other words, the conclusion is arrived at in the face of that evidence and it is easy to visualise how much inconvenience will be caused when the steamer carries passengers from Java, Malay States and all the various provinces of India whose tastes as to food differ so materially. As a matter of fact, I may mention that although I have spent about 2½ years in Delhi, coming here for every Session and although I visited Delhi even before, I have not yet got accustomed to Delhi curries. I can feel the difficulty to which these pilgrims would be exposed if they are denied the food which they could prepare for themselves and which would be agreeable to their taste. The details of the diet have been very fully gone into by other speakers and I will not reiterate them here. Sir, I have very great pleasure in supporting this amendment and in suggesting to the Government that, instead of diverting their attention to making food compulsory on the voyage, they should levy a small amount over and above what they charge for the voyage and employ a sufficient number of servants so that the steamers can be kept clean right through.

**Mr. G. S. Bajpai:** Sir, the merits of the question as to whether food shall be supplied cooked by the shipping company or whether the individual pilgrims shall have freedom to cook it themselves has been gone into sufficiently already and I do not think that I ought to take the time of the House by rebutting the arguments which my Honourable friends have put forward just now. The only point that I need refer to is the one which was made by my Honourable friend, Mr. Maswood Ahmad, as to what would happen if somebody wants food cooked for an invalid or hot water in order to prepare *joshanda*. I have no doubt, Sir, that the shipping company would be sufficiently humanitarian to provide pilgrims with the requisite amount of hot water and also facilities for having food cooked for the invalid.

**Khan Bahadur Makhdum Syed Rajan Bakhsh Shah** (South West Punjab: Muhammadan): Sir,\* I regret very much to say that I tried to speak several times yesterday, but was not allowed by the Chair to do so. I think it is the duty of the Chair to give the first chance of speaking to those who rise to speak only occasionally. I rise at this moment to say a few words in connection with the opposition of certain Muslim Honourable Members to the introduction of compulsory food.

I know, Sir, that they are sincere in what they say; but let me tell them that when we journeyed from Bombay to Karachi in the company of Hajis, we did so primarily to study in detail what hardships fell to their lot in the matter of food; and we noticed that it was a great inconvenience

\* Translation of the original speech delivered in the vernacular.

to them to cook their food. It was raining at the time. The wind was blowing, and the wood, which was wet and cold, would not burn. We asked them if they would like to have food from the hotel arranged for them, and they all gladly said "yes". It was only then that we made our recommendation for the introduction of compulsory food. Let those who are against this recommendation go and see for themselves how miserable the Hajis feel when engaged in cooking their meals. If they do so, they would never oppose the measure. Hotel-cooked food should be made compulsory; and any defect in food or any inconvenience to Hajis on that account can be remedied later on in the light of experience gained. We had also recommended that Re. 1 per day should be the minimum charge for men and annas eight for boys under 12 years. But if the charge now is going to be fixed higher, we would be compelled to oppose the hotel-cooked food being made compulsory.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That in clause 4 (c) of the Bill, after the word 'food' the word 'fuel' be inserted."

The motion was negatived.

Clauses 4 and 5 were added to the Bill.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That clause 6 stand part of the Bill."

**Khan Bahadur Haji Wajihuddin**: Sir, I beg to move:

"That in clause 6 of the Bill, for the words 'sixteen and ninety-six' the words 'eighteen and one hundred and eight' be substituted."

Sir, it is a long-standing grievance of the pilgrims that the space of 16 superficial feet provided to each of them till today is quite inadequate and should be increased. But I regret very much that no improvement has been made in the Bill in this respect. From yesterday's speeches I find that there is an apprehension of an increase in the steamer fare, if 18 feet is provided, which, I say, I am sure, is bound to decrease if the deposit system is made compulsory and return ticket system is abolished. The return ticket system is no doubt responsible for giving monopoly to one big shipping company and depriving all other small companies from coming in the field to compete with the big concern. I am sure, that has been the only cause of high fares during the last six or seven years. I, therefore, say, Sir, that if both my amendments are accepted by the House, there will be reduction in the fare and there is no danger of increase in the fare. My amendment is based on the recommendations made by expert Hajis and resolved unanimously by the Haj Committee of Karachi and oral evidence given by the Delhi Muslim Association. With these words, Sir, I move my amendment.

**Mr. M. Maswood Ahmad:** Sir, I support the amendment moved by my Honourable friend. The amendment was in my name as well, but I did not want to have monopoly of moving all the amendments.

In this connection first of all I want to inform this House that by this clause Government are not showering any boon upon the pilgrims or on the Mussalmans. Although it appears *prima facie* that Government are giving a space of 16 square feet to the pilgrims which they had not before, that is not really the case. Government are simply taking something from one pocket and putting it in in another pocket. Here is a Guide to the General Instructions for Pilgrims to the Hedjaz. On page 29 of this, you will find notification No. 2145, dated Simla, the 17th September, 1897. This is not a quotation from any newspaper and so I think my Honourable friend, Mr. Bajpai, will not challenge it. This is what it says:

"In exercise of the power conferred by section 19, sub-section (1), of the Pilgrim Ships Act, 1895 (XIV of 1895), and in supersession of the orders contained in the notification of the Government of India in the Home Department, No. 260, dated the 5th October 1896, the Governor General in Council is pleased to order that every pilgrim ship shall contain at least sixteen superficial feet and ninety-six cubic feet on a space available for each pilgrim in the between deck on which he is accommodated."

So, Sir, the question of space was already the same as it is at present. Government have taken that portion from their notification and they have placed it in this Bill to show the public that they are anxious for the Mussalmans and for the pilgrims. This is a garb which has been put on the injurious clauses, the clauses which will discourage pilgrimage in the future. And even in the case of space you will see that Government are not following the recommendation of the International Sanitary Convention of the Straits Settlement Ordinances to the word. In this connection I will first quote section 193 of the Merchant Shipping Act, as mentioned on page 88, para. 150, of the Haj Inquiry Committee's Report:

"193. (1) The Governor General in Council may by order determine the number of superficial and cubic feet of space (not being less than the space for the time being required for passengers under this Act) to be available in the between decks for pilgrims of each class, respectively, on board the pilgrim ships.

(2) Every pilgrim ship shall have reserved for the use of the pilgrims on board gratuitously by day and by night so much of the upper deck as is not required for the airing space of the crew or for permanent structures:

Provided that the upper deck space available for pilgrims shall in no case be less than six superficial feet for each pilgrim of the age of twelve years or upwards on board."

In the very beginning, I want to say, that the International Sanitary Convention is an *ex-parte* document. It cannot be a document which can bind Mussalmans. If you will see to the representation of India in this, you will find three names who had gone there to represent India and who represented Mussalmans in the International Sanitary Conventions in the discussion about pilgrimage to Hedjaz and these Honourable gentlemen were Mr. D. T. Chadwick, Mr. J. D. Graham and Mr. R. D. Tata. These were the three gentlemen, Haji's friends, who represented India at the International Sanitary Convention where the question of space for pilgrims was discussed. So, this is absolutely an *ex-parte* document, as no Mussalman was consulted. No Mussalman was given any opportunity to express views on this point and even a passage from the International Sanitary Convention's recommendation or from the Ordinances of the Straits Settlement will show that Government have omitted these portions which were in favour of the pilgrims and have added something to

make it worse. This is the great charge against the Government in this connection. Here you will find that what was in favour of the pilgrims have been omitted altogether and some injurious words have been added. In this connection, Mr. President, I want to quote section 241 of the Straits Settlement Ordinance first and this is what you will find:

"Every pilgrim ship shall have reserved for the use of the pilgrims on board gratuitously by day and by night so much of the upper deck kept free from encumbrance as will provide not less than six superficial feet for each pilgrim on board."

Mr. President, you will find there is no age limit there, but the Government of India have restricted it for pilgrims of above twelve years only. Sir, the International Sanitary Convention says:

"The ship shall be capable of accommodating the pilgrims in the between decks. Over and above the space reserved for the crew, the ship shall provide for each person, irrespective of age an area of 1.50 square metres equivalent to 16 English sq. ft. and a height between decks of at least 1.80 metres, equivalent to about 6 English feet."

Further, they say:

"Pilgrims shall not be lodged on any deck lower than the first between-deck which is below the water line. Satisfactory ventilation by mechanical means in the case of docks below the first of the between decks, shall be provided. In addition to the space reserved for pilgrims, there shall be on the upper deck a free area of not less than .56 sq. meter equivalent to 6 English sq. ft. for each person, irrespective of age."

The phrase again is there "irrespective of age" and it should not be forgotten:

"Over and above the area upon that deck which may be reserved for temporary hospitals, the crew baths and latrines and for the working of the ship."

This is the International Sanitary Convention. But, Sir, the Haj Inquiry Committee again committed that mistake and, in recommendation No. 93, on page 165 of their report, they have endorsed section 193(2) of the Merchant Shipping Act, which does not provide airing space to children below 12 years of age. They did not insist on the phrase "irrespective of age". Why this 6 sq. ft. airing space will not be for pilgrims of an age of below 12 years when the company charges full fare for them, I cannot understand. So this is a great difference from the recommendation of the International Sanitary Convention and from the Straits Settlement Act. The idea was that this thing will be for the benefit of the pilgrims and that each pilgrim, irrespective of age, will get so much open space on the deck, which has been overlooked by the Government.

Further, I want to remove certain doubt about the recommendation of the International Sanitary Convention, that is, the question of 16 sq. feet does not mean that the Government of India cannot increase it from 16 sq. ft. to 18 sq. feet. They cannot decrease it, but they certainly can increase if they want to treat pilgrims as human beings.

Now, Sir, coming to the merit, you will find what this 16 sq. ft. means: 6 ft. long and 2 ft. 8 in. wide. So a wide space of 2 ft. 8 in. will be given to each pilgrim and these pilgrims will be for 16 days on decks. I ask any supporter of Government, who always supports Government, whether it is right or wrong, how is it possible for a man to sleep in a space of 2 ft. 8 in?

[Mr. M. Maswood Ahmad.]

I may mark a space of 2 ft. 8 in. and ask those supporters to sleep there for one night. Where the Maulana Saheb and others cannot sleep even for one night, they ask 15,000 pilgrims to sleep for 15 nights and to remain packed for 15 days. Even all these pilgrims do not get this 2 ft. 8 in. space and I am glad that the Haj Inquiry Committee admitted it. They admit that in 1913 Mr. A. K. Ghuznavi criticised too severely the inadequate accommodation provided. Paragraph 140 of the Haj Inquiry Committee Report will show this:

"It is true that under present conditions the congestion and confusion on a fully loaded pilgrim ship is terrible."

In argument, they are all right, everywhere they admit it, but in conclusion they follow Mr. Clayton.

Now, comes the question of principle that pilgrims do not get even 2 ft. 8 inches. The procedure is this that at the time of survey they take survey of the whole ship. Suppose there is a ship having a block of 2,000 sq. ft.; they deduct some portion for prohibited area, some portion for table, they deduct some thing for the ladder, they deduct some space for this purpose and for that purpose, and after deducting all these portions, suppose it comes to 1,600 sq. ft. Then they divide it by 16 and then declare that the ship has a capacity for about 100 pilgrims. What about the curvature? What about the wastage. The Haj Inquiry Committee, in para. 146, has admitted that by marking 16 sq. ft. space for each pilgrim, the carrying capacity of the ship will decrease which means that pilgrims do not get even 16 sq. ft. space. Government do not take into consideration all these. How a man can sleep between that bench and this seat, although there is some space here? If pilgrims sleep in this space of 2 ft. 8 in. in the decks at night, they will fall on each other. Sir, even a dead body takes more than 2 ft. 8 inches space in width. There remains absolutely no space in the *gully* to walk. While turning on one way, if they sleep in this short space, one pilgrim comes on to the body of another pilgrim. So they want to make these living persons live like dead bodies. They want to treat these pilgrims who go for religious performance just like a flock of sheep with a space of 2 ft. 8 in. even flock of sheep get some space more than their body in railway wagons. I do not know whether the opposers of this motion have any human feeling or not. And yet Government say that they have brought forward this Bill in favour of the pilgrims: whereas there is absolutely no favour contained in their proposals: on the other hand, it looks as if they want to discourage this Haj business completely.

The Haj Inquiry Committee further says:

"We consider that a similar allowance should be made in the between deck as at present no provision for any passage way is made at all."

So, if there is absolutely no passage given for moving about at night, what happens? A man may want to go to the latrine and he will have absolutely no space to move about: and when I recommended in the Select Committee that this 2'-8" must be made 3', what happened? At Simla, people sided with me on this point and 6' x 3' was recommended. But when the last sitting took place in Delhi, anyhow some supporters of Government were able to win over some of our members and again that decision was taken away and 2'-8" space was restored to the poor pilgrims.

**An Honourable Member:** It will happen again now.

**Mr. M. Maswood Ahmad:** They themselves have recommended that there must be 1'-6" space between two rows in order that passengers might go and come. When this question was discussed in the Select Committee, I raised that point; and the same men, who had signed this Haj Inquiry Committee's Report, where it is said that 1'-6" space should be given between two rows, did not support me and sided with the Government and I was defeated there. Sir, I do the duty which has been entrusted to me. I have placed all these facts before the Government and they are in power: they do what they like; they have got so many votes in their pocket: I cannot help it . . . . .

**An Honourable Member:** Please do not get excited in your speech.

**Mr. M. Maswood Ahmad:** This is a question of religion, Sir, and they talk about excitement. What happened further? You will be surprised to hear, Sir, that the witnesses have given evidence for more space. They have said 16 sq. feet space is not sufficient. They are dissatisfied, but Mr. Clayton, in the Haj Inquiry Committee report, was satisfied with even 2'-8" only.

Anyhow, I said in the Select Committee: "If you are going to give only 2'-8", for God's sake, give him full 2'-8". But see the recommendation of the Haj Committee. You will be surprised. Many witnesses have urged that every individual ticket should give the holder the right to a particular space of 16 sq. ft. marked out on the deck and numbered (*see* para. 146, page 86). I suggested this in the Committee as well. I said "If you are going to give only 16 sq ft., never mind: give it; but mark it off so that there may not be a rush" Sir, I want to remove the chance of the recurrence of the *lathi* charge which happened two months ago and about which questions were put on the floor of this House. Why did that *lathi* charge take place? Because the day before the pilgrims were invited to go and to *loot* (rob and to take by force) their space, when they reached there to get this space, they were detained for eight hours on the docks and then a *lathi* charge was made on them with the same *lathi* which is used commonly by the police. Government may not accept it, but it is a fact. Here, again, what has the Haj Inquiry Committee done? They say:

"We have made careful investigation to satisfy ourselves whether this is a practical proposition."

And the Government have accepted this foolish argument. What is this practical proposition in marking off 2'-8" of space for each pilgrim? Is it possible or not possible to mark off 16 sq ft. of space? Is it such an important and difficult question? What is difficulty in marking the space? They then say:

"Our conclusions are recorded in the report of our inspection of S. S. "Vita" on the 28th June, 1929, which is attached as an appendix. It will be seen that passages suggested in the proposal would result in a considerable decrease in the present carrying capacity of the ships."

The main idea is that the carrying capacity of the ships should not be decreased! That means that the calculation at present is wrong and that even this 2'-8" is not given to the pilgrims. They are packed there like a flock of sheep. Sir, I support wholeheartedly the amendment of my Honourable friend, Haji Wajihuddin, on this question that at least you must give 6' by 3' space to each pilgrim, without raising the rates.

**Mr. Gaya Prasad Singh:** Sir, I support this amendment, and I want to do so, because though I have not gone on the Haj pilgrimage, I have been to another pilgrimage called the Ganga Sagar Mela which is held about the middle of January, every year, and to which a large number of Hindu pilgrims go by steamers from Calcutta chartered by Hoare Miller & Co., and other companies. I was a pilgrim once by that steamer many years back, and I found that the difficulties in getting space was so great that I am quite willing to believe what my friend has said regarding the conditions on Haj pilgrimage. I do not know whether he has performed the Haj or not: however, that is not a matter for consideration; but the space which is given to the pilgrims is really very small; and in that pilgrimage which I have performed neither cooked food was given by the steamer company, nor was cooking on board allowed; and the result was that we had to take our own food—dried grams and such other things for two days which were indigestible. Of course it was only confined to two or three days—I do not exactly remember: but pilgrims had to suffer a great deal on the outward journey to the Saugor Islands as well as on the return journey; and, from the experience which I have myself gathered, I am quite willing to believe that the Haj pilgrims suffer a great amount of hardship if they are cabined, cribbed and confined to the space marked out in this Bill—16 sq. ft. I, therefore, support my friend that the space allowed should be more liberal, considering the physical proportions of some of the pilgrims, sanitary considerations, and such other matters. My Honourable friend also says that there is no space kept between the persons and between the rows of persons on the deck. I myself had some experience in this matter, and, therefore, I am quite willing to believe what my friend has said: when sleeping at night there was some difficulty and confusion; one man was tumbling over another man, and so on. (Laughter.) Really Government should seriously do something more substantial. Why should people be allowed to be huddled together like dumb driven cattle in this way? Steamers have been plying between India and Tanganyika and other African territories, and the same sort of complaint is very often heard; and I was one of those who have often to complain on the floor of this House on these matters. Now, I find that even persons, who go on pilgrimage to the most important places, held sacred by Muslims, are permitted to go under these conditions. Therefore, it is high time that conditions must be improved according to the requirements of the case and on more hygienic principles, and no sort of extra charges should be made. With these few words, I wholeheartedly support the amendment of my friend.

**Mr. G. Morgan:** Sir, I do not want to take up any more time of the House with regard to this question; but I want to put to Government one point. Sir referring to section 193 of the Merchant Shipping Act, I find that in the International Sanitary Convention (*vide* Education, Health and Lands, Notification No. 2532, dated the 31st December, 1930), it is stated in the Schedule, that the measures prescribed in the Schedule to this Agreement shall be applied with effect from the date on which this Agreement comes into force pending the ratification of the revised International Sanitary Convention on behalf of India. The Schedule gives 16 sq. ft. and the question I would like the Government to answer is, would it not, by putting in the words "Not less than 18 square feet" as the amendment proposes, be a definite breach of the Anglo-Dutch Agreement and

the International Sanitary Convention? (*An Honourable Member: "No."*) The words "at least" or a "minimum" are not mentioned in these agreements. That is all I want to say. Sir, I cannot understand the arguments of some of my Honourable friends. If 18 sq. ft. were allowed, it is double the space allowed to a native passenger who gets nine superficial and 54 cubic feet under section 179 of the Indian Merchant Shipping Act. What do they do with half the space if people cannot live in 16 sq. ft.? The native passenger lives in half the space. Sir, I oppose this amendment.

**Shaikh Sadiq Hasan:** Sir, I very strongly support this amendment. While on the one hand the charge has been levelled against the Government that they are trying to check pilgrimage, on the other hand it is stated that Government are anxious to show solicitude for the pilgrims. The net result of their solicitude for the pilgrims is that they want the shipping companies to allow 16 sq. ft. space for each passenger. 16 sq. ft. means only 6 ft. by 2.8 ft. which is hardly sufficient for a man to lie down. Sir, there are thousands of men and women who go on Haj pilgrimage, and what we find is this. A woman will be lying with another man side by side, and such a thing is really intolerable. If the Government have really soft feelings for the poor people, they should insist upon the shipping companies, who make so much money, to provide some *pardah* arrangement for the women who want to perform the Haj. On the other hand, what is the Government doing? All those, who are so fastidious in taste and would like to have big cabins for themselves, consider that 16 sq. ft. space is quite enough for a human being. I do assert, Sir, that even the dogs when they are taken on some boats are allowed a larger amount of space than is allotted to these poor Haj pilgrims. After all, these pilgrims may be poor people, but on that account they should not be ignored, because they are also human beings; at least I consider them as much my brethren as I will consider any other important person. I do feel that it is not very fair to put them in such a position where one's feet will be touching the head of another, and where a woman will be lying adjacent to another man. I think it is really a very serious matter. I have got the greatest regard for members of the Select Committee who reported in favour of it, but I ask them, is it in the interests of these poor pilgrims that they should be allotted only 16 sq. ft. instead of 18 sq. ft.? Why do not the Government have the courage to tell the shipping companies to allot sufficient space for these people so that they may travel in comfort? I don't say they would be quite comfortable, because it is impossible to be comfortable in a voyage when the people are not accustomed to it, but they should be allotted sufficient space. With these few words, I support the amendment.

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** Sir, in the first place, let me assure the House that the Government never wanted to show, by means of the provision which is now under discussion, any favour whatsoever to pilgrims or to anybody else. I don't think a word has been said by me or by anybody speaking on behalf of Government that the provision relating to 16 sq. ft. is a favour that Government are doing to the pilgrims or to the Muslim community. I do not understand wherefrom the Honourable Member from Bihar and Orissa has got hold of



[Khan Bahadur Mian Sir Fazl-i-Husain.]

this idea. He has imported a great deal of feeling into the controversy, and has taken upon himself the task of impugning the independence of opinion of the entire Haj Inquiry Committee consisting mostly of Members of this House by making a palpably ridiculous allegation that they simply signed the Report or the opinions recorded by the Chairman. It does hardly any credit to any one of us in this House to make an allegation of this sort against any other Member. What a contrast, Sir, to a speech made on the floor of this House by a member of this Committee from the Punjab who said: "Sir, I have done my duty honestly recording my opinion independently and fearlessly, and I believe the Honourable Members who are opposing my view are also doing the same honestly and fearlessly". Unless we adopt that attitude in this House, I do not see how the high traditions of this House can be maintained . . . . .

[At this stage, Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) vacated the Chair which was occupied by Mr. Deputy President (Mr. Abdul Matin Chaudhury).]

The Sanitary Convention about which the Honourable Member spoke to feelingly and to which he was no party and the great community to which he belongs was no party, he said, was not binding on him. May I assure the House that it was not a contract between the Muslim community and the other party, and there was certainly no idea of contractual obligations incurred thereby. He might perhaps know that the Sanitary Convention relates to sanitary matters, and the question of religion does not come into it. The space required would be the same, whether it was required by a Christian or a Muslim or a Jew or a Hindu . . . . .

**Mr. M. Maswood Ahmad:** Was there any one to represent the Muslim point of view?

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** There is no Muslim point of view, unless the Honourable Member is prepared to go so far as to say that the requirements of Muslims either on account of largeness or smallness of their size or of their breathing apparatus are different from those of other human beings who have not adopted the religion of Islam. If he is prepared to go so far as that, then in future if a Sanitary Convention is held, a case might be made out by the Muslim community for being represented on it.

Then, Sir, the Honourable Member talked of "irrespective of age". So far as I can see, "irrespective of age" exists still there. The rule under that has not been changed in any way.

Then, Sir, the Honourable Member himself and others who supported him, began to talk of toes touching toes and arms touching arms and people getting over other people when they have to move about in the ship. May I ask, whether the proposed amendment gets over all these troubles? After all, the additional space will not be so very much as to allow something else to intervene between toes and heads or arms and arms. What is more, he gave the House the impression that it is now

for the first time that Government have made this rule, this horrible rule, under which pilgrims will be suffering from all these terrible inconveniences, and he drew a most lurid picture of Government initiating conditions which are terrible to contemplate. This is very largely due to the fact that he has up till now contented himself with serving the best interests of Hajis without like me having undertaken the pilgrimage himself. Right up till this year, under the existing rules, pilgrims have no more space than 16 square feet.

**Mr. M. Maswood Ahmad:** That is what I have said.

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** I am glad to hear that. Therefore, when he says that it cannot be done, it must be wrong, because it is being done year after year. What is the reform that it can be rightly claimed is being effected? Now, that space is being occupied by the pilgrim, by his cooking utensils, by his *angiti*, by the rations that he has brought from home and, in the case of the well-to-do, by his cock and by his hen and by his eggs and by his goat. All those disappear and the space taken up by the cock, the hen and the eggs will in future be occupied by the pilgrim himself. The Committee do not profess to do any more than that the Government do not claim that in future 16 sq. feet will give a larger space than it does at present. The only object is that encumbrances, which used to take a large part of this space, will be removed and the pilgrim would feel more comfortable than he does at present. Why limit yourself to 16 sq. feet? A question has been propounded by Mr. Morgan to the effect—is it open to the Government to legislate that the space should be more than 16 sq. feet? Keeping in view certain passages which he read out from the Convention, I have been advised, that there is nothing to prevent Government agreeing to a larger space than 16. 16 is the minimum space insisted upon by the Convention and, if people can go beyond that, there is nothing to prevent that being done. Why then Government do not go in for 18, 20 or 24 or any other space? Obviously 16 is not as good as 18. I am free to confess that. I was myself most anxious to increase the space, although I cannot say that the Honourable Member from Bihar, who so feelingly spoke, could be said to be the typical pilgrim. He is above the normal, Honourable Members will agree with me in thinking. He requires more space than a normal man would require.

(Interruption by Mr. M. Maswood Ahmad.)

**Mr. Gaya Prasad Singh:** What about a thin man like myself, for instance?

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** A case for rebate might in that case be made out. Obviously what is overlooked is that you cannot have additional space without paying for it. That is the trouble. I would very gladly have given 18 square feet. I can assure the House that I gave a good deal of thought and time to this question. The shipping companies were face to face with three attacks. One was the food attack, the other was the space attack and the third was the ticket attack. The food attack thrust the responsibility of giving cooked food on the company and they did not want to take it. We wanted

[Khan Bahadur Mian Sir Fazl-i-Husain.]

them to give more space for the same price and they did not want to agree to it. We wanted them to agree to compulsory deposit and give up the return ticket and they did not want to do that. I was assured that it is in the interest of the pilgrims that food reform be carried out and after protracted negotiations I was able to obtain a half hearted agreement from the shipping people as regards cooking. They were most unwilling to agree to it and trotted out all sorts of difficulties. They could not very well say an absolute "No" to all the three points. As to space they were business like. We are at present getting so much money out of so much space at the rate of 16 square feet. If you want us to give 18, increase the fare and get it. On these terms the Select Committee of this House was not prepared to take it.

**Mr. M. Maswood Ahmad:** Why not fix the rate per square foot?

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** I do not think I really need answer the interruptions of the Honourable Member when they neither are helpful nor amazing. Now, Sir, the members of the Committee felt that if the fare was increased, it would be a great hardship and people would not agree to it. It was with great reluctance that I had to give it up and it will be noticed by those who have read the Haj Inquiry Committee's report that it was exactly the feeling of the Committee itself. They wanted to move in that direction, but they could not. They were already imposing a liability on the shipping company in the matter of food and they were justified in pointing out that that reform is likely to give a certain amount of space for the convenience of pilgrims which up till now has been taken up by the pilgrim's miscellaneous luggage. I am afraid there was no alternative for Government but to rest content with the position as to space being left, as at present, in the hope that conditions will improve or if they do not improve or if the demand for greater space at a price is brought to our notice, we can always move in that direction. Therefore, I oppose the amendment.

**Maulvi Muhammad Shafee Daoodi:** Sir, my friend, Mr. Maswood

**4 P.M.** Ahmad, has unnecessarily displayed great heat over the matter and used very harsh language towards the members of the Haj Inquiry Committee without realizing to what extent he was hurting the feelings of those who devoted their time to this piece of work. I vainly tried to find out from his speech as to whether there was any substance in it. He has not considered at all that the space on board the ship has to be paid for. He seemed to think that any space any man can have without paying for it! If he had considered the question of payment for the space allotted to a pilgrim or to a passenger on board the ship, he would have given some reasons for it, but I did not hear a word about it in his speech. The question is that everyone—as it was put by another speaker—would like to have greater space for the minimum of value that he can pay for it, but the question before us was as to whether the congestion and the confusion, that arises on board the pilgrim ship, can be minimised by allowing greater space than at present. The question arose that with the allotment of greater space we have to pay greater value for it. Those who have read the Haj Inquiry Committee's Report might have realized that there were several ways and means discovered how the

congestion could be minimised. One of the ways of minimising the congestion was to compel every pilgrim to deposit his big packages in the great hold underneath the decks. The other was to provide them with cooked food so that the provisions of uncooked food which they take with them and which takes a lot of space might also be saved. A third was that the airing space over the deck, which used to be utilised by first class passengers, should be cleared for the purposes of the deck passengers all the hours of the day and night. Now, the considerations before us were—either to increase the rates, or to have other measures adopted in order to reduce the congestion on account of so many pilgrims put together. We weighed both sides of the question and we came to the conclusion that the Haj is already so dear to the poor people that we must not try to raise the expense if we could help it, and, therefore, we came to the conclusion that for a few years our recommendations might be carried out and it might be seen whether the provisions we had made would remove the congestion in the between decks and whether the same difficulty would remain. Now, we unanimously came to the conclusion that we should not at that stage try to give them more space, which would certainly entail additional cost to the pilgrims, but try to remove those causes which lead to congestion, and we have for that reason recommended so many things in this report.

At first the Act did not mention as to what space had been allotted for these pilgrims. The Act was silent on the point. Section 93, clause (1), said only this much:

“That the space should not be less than the space for the time being required for passengers under this Act.”

This led to great anomalies. The pilgrims did not know as to what space had been allotted to them so that they might claim as of right from the Captain at the time when they board the ship. We proposed that this omission in the Act must be remedied and we should put a clause in the Act itself as to what space has been allotted.

**Mr. M. Maswood Ahmad:** May I tell my Honourable friend one thing? Under the present Act it is in the power of the Governor General in Council to increase the space from 16 sq. ft. to 18 or 20 or 24 sq. ft., whatever the Governor General may choose, but after the passing of this Bill the power will be taken away from the Governor General in Council and even the Governor General in Council will not be in a position to increase this space.

**Mr. G. S. Bajpai:** No, Sir. We are merely prescribing the minimum space.

**Maulvi Muhammad Shafee Daoodi:** I do not know how my Honourable friend reads the clauses . . .

**Mr. M. Maswood Ahmad:** I have just quoted the actual words.

**Maulvi Muhammad Shafee Daoodi:** But I was going to tell him something else. I was saying that because the Act did not mention the exact space to which the pilgrim was entitled after paying so much money for it, we thought it should be mentioned in the Bill itself so that every pilgrim

[Maulvi Muhammad Shafee Daoodi.]

should know that that is the space which he is entitled to get from the Captain; and, therefore, we recommended that it was desirable that the minimum space for each pilgrim in the in-between decks should be prescribed under section 93(1) of the Indian Merchant Shipping Act, just as the space on the upper deck was prescribed under section 53(2). So it was according to our recommendation that the fact should be mentioned in the Act itself that the Government have made this proposal in section 93(2). My Honourable friend was very vehement on this question and he misconstrued the whole thing. The mention of this fact in the Bill itself does not take away the power from the Governor General in Council at any time to increase the space. Then, my Honourable friend told us that the calculation was absolutely wrong, and, therefore, the pilgrims had not got even the 16 sq. ft. which had been allotted by the rules and regulations for the pilgrims, but there my friend has overlooked one fact. Here, at page 210, we have mentioned how the calculation is made. It is made in this way. Holds are separate parts and blocks on board the ship. Each hold is measured separately and deductions are made on account of any obstructions which would decrease the actual space available, such as stairways, ventilators, casings, hatches, etc. Each hold or space for accommodating passengers is separately calculated and the number of passengers, legally authorised to be carried, is shown separately in the case of each part of the ship open to passengers. The adequacy of the ventilators is checked in the case of between-decks. But we did not content ourselves with this rule of measurement. We made recommendations in this respect which will be found, I believe, at page 164 of the Haj Inquiry Committee's Report.

"When a pilgrim ship is under survey, a deduction of an alley-way space of one and a half feet in width should be made in the between-decks as has already been done in the case of the upper deck."

**Mr. M. Maswood Ahmad:** But it has not been done.

**Maulvi Muhammad Shafee Daoodi:** It is a matter for us now to see that the rules are strictly obeyed. The laws have been made, but the Mussalman are not alert enough to see that those laws are obeyed. It is our fault and not the fault of the law givers. They have given you certain rights and we ought to know how to utilise them. I have already said that the rules are not being followed strictly and, therefore, the pilgrims are put to trouble. We have tried to make all these rules prominently mentioned in some part of the Act and prominently written on some part of the ship, so that the pilgrims may know their right and may claim it as a matter of course.

**Mr. G. S. Bajpal:** On a point of explanation, Sir, to clear up what my Honourable friend, Maulvi Muhammad Shafee Daoodi, has just said. We propose to make a rule to give effect to recommendation No. 85 as regards the alley-way.

**Maulvi Muhammad Shafee Daoodi:** Thank you. My friend was trying to lay great stress on the fact that the 16 square feet is absolutely insufficient. If the space can be increased, I shall be most delighted, but I am afraid, at the same time, that I would be increasing the burden of the pilgrims more than they are at the present moment. The members of the Committee have also made observations on this question. They found that

the camp cot which was generally sold in Bombay for the pilgrims' use is quite enough for lying down and even turning to their sides. That cot is 6 ft. 5 inches  $\times$  2 ft. 6 inches. A reference has been made to it also somewhere in the report. About 50 per cent. people purchase these cots at Bombay.

**Khan Bahadur Haji Wajihuddin:** Not 50 per cent. people; there might be only five per cent. people who purchase these cots.

**Maulvi Muhammad Shafee Daoodi:** I know many people purchase these cots. They lie down on these cots and keep their luggage underneath. I think they are quite comfortable. Those who do not purchase it have to undergo the hardship of sharing the space with their luggage. There is no help for it. Therefore, it is not true to say that a man cannot sleep within that space. Certainly the people are not huddled together. There are several small blocks in the ship and all these small blocks are measured in the way in which I have suggested, alley-ways being excluded.

**Mr. M. Maswood Ahmad:** Are alley-ways excluded?

**Maulvi Muhammad Shafee Daoodi:** Yes. Just now our Honourable friend, Mr. Bajpai, has said to that effect. Perhaps my Honourable friend was not attentive at that time. All these things being considered, the pilgrim has to pass his days with 16 sq. feet. But, as I told the Honourable Members, it is the cost that prevented us from recommending a greater space. If my Honourable friend could convince the pilgrims to Hedjaz to pay more, certainly we should be very glad to have more space per pilgrim, but I am not of the opinion that the poor pilgrims should be taxed more than what they are taxed at the present moment for the space of 16 square feet. Sir, my friend has accused us of saying one thing at one time and another at another time. He said that without any justification. I am very sorry I am not accustomed to reply to such insinuations. All that I need say is that my friend has no idea whatsoever of any pilgrim ship. That is his trouble. If my friend had taken the trouble of going on a pilgrimage and seen for himself what sort of accommodation there is on a pilgrim ship, then his suggestions might have had some value in our eyes. Now, we know the difficulties and we have tried to solve them. We have come to certain conclusions. (Interruption by Mr. M. Maswood Ahmad.) Haji Wajihuddin has not used strong expressions against anybody; he has not found fault with the motives of the members of the Haj Inquiry Committee. He has not insinuated one thing or the other against the members of the Haj Inquiry Committee. He has of course laid his own case. I also want that the space should be increased, but I am afraid that the shipping companies would not agree unless they get additional money. For these reasons my friend should not press his point and should wait till such time as he has performed the pilgrimage himself and then come forward with amendments of this nature.

**Mr. M. Maswood Ahmad:** I want two minutes, Sir, for a personal explanation.

**Mr. Deputy President (Mr. Abdul Matin Chaudhury):** The Honourable Member cannot make a second speech.

**Mr. M. Maswood Ahmad:** It is a personal explanation, Sir. On page 83, the report of the Haj Inquiry Committee says:

"The alley-way space, one and a half feet in width, is also deducted on the upper deck as necessary for the purpose of working the ship. This is not provided for in the rules but the shipping companies have raised no objection to the deduction being made."

I cannot understand on what strength the Maulana Saheb says that it is deducted.

**Maulvi Muhammad Shafee Daoodi:** This is not a personal explanation.

**Mr. B. V. Jadhav** (Bombay Central Division: Non-Muhammadan Rural): Sir, I had no intention to take part in this discussion, but as our official mathematician is not present in the House and as I used to debble in this subject at college, I make myself bold to put some figures before this House. My friend, Maulvi Shafee Daoodi, had stated before the House that the space allotted per pilgrim (16 square feet) is just enough for putting a camp-cot, 2 ft. 6 inches broad and 6 ft. 5 inches long. I may point out to him that it exceeds the limit of 16 square feet by a fraction and then one has to take into consideration the fact that, in order to be comfortable in the camp-cot, one has to have some open space by one of the sides of the cot. Now, it is evident from the speech of my Honourable friend that certain pilgrims purchase camp-cots and they use them on board the ship. It means that it is a very great hardship for the poorer people who cannot afford to purchase a camp-cot. These camp-cotwallahs are utilising more space than 16 square feet and in that way they are trying to inconvenience the poorer pilgrims who cannot afford to purchase a camp-cot. And, if all the persons were able to purchase camp-cots, then it is quite plain that there will not be enough space to place these camp-cots there and people will not be able to get into them.

**An Honourable Member:** What is the excess space required?

**Mr. B. V. Jadhav:** There must be space to get down from the cot and get into the cot. I, therefore, hold that a space of 16 square feet is quite inadequate.

**Mr. Deputy President** (Mr. Abdul Matin Chaudhury): The question is:

"That in clause 6 of the Bill, for the words 'sixteen and ninety-six' the words 'eighteen and one hundred and eight' be substituted."

The Assembly divided:

AYES—10.

Anwar-ul-Azim, Mr. Muhammad.  
Azhar Ali, Mr. Muhammad.  
Gunjal, Mr. N. R.  
Kyaw Myint, U.  
Maswood Ahmad, Mr. M.

Misra, Mr. B. N.  
Neogy, Mr. K. C.  
Sadiq Hasan, Shaikh.  
Uppi Saheb Bahadur, Mr.  
Wajihuddin, Khan Bahadur Haji.

NOES—54.

Abdul Hye, Khan Bahadur Abul  
Hasnat Muhammad.  
Abdur Rahim, Sir.  
Acott, Mr. A. S. V.  
Ahmad Nawaz Khan, Major Nawab.  
Allah Baksh Khan Tiwana, Khan  
Bahadur Malik.  
Amir Hussain, Khan Bahadur Saiyid.  
Bajpai, Mr. G. S.  
Bhore, The Honourable Sir Joseph.  
Biswas, Mr. C. C.  
Clow, Mr. A. G.  
Dalal, Dr. R. D.  
Dutt, Mr. G. S.  
Dutt, Mr. P. C.  
Fox, Mr. H. B.  
Ghuznavi, Mr. A. H.  
Haig, The Honourable Sir Harry.  
Hezlett, Mr. J.  
Ibrahim Ali Khan, Lieut. Nawab  
Muhammad.  
Ismail Ali Khan, Kunwar Hajee.  
Jawahar Singh, Sardar Bahadur  
Sardar.  
Jehangir, Sir Cowasji.  
Jog, Mr. S. G.  
Krishnamachariar, Raja Bahadur G.  
Lal Chand, Hony. Captain Rao  
Bahadur Chaudhri.  
Leach, Mr. A. G.  
Mackenzie, Mr. R. T. H.  
Megaw, Major General Sir John.

Metcalfe, Mr. H. A. F.  
Millar, Mr. E. S.  
Mitchell, Mr. D. G.  
Mitter, The Honourable Sir  
Brojendra.  
Morgan, Mr. G.  
Mukherjee, Rai Bahadur S. C.  
Murtuza Saheb Bahadur, Maulvi  
Sayyid.  
Noyce, The Honourable Sir Frank.  
Parma Nand, Bhai.  
Patil, Rao Bahadur B. L.  
Rafiuddin Ahmad, Khan Bahadur  
Maulvi.  
Raisman, Mr. A.  
Rajan Baksh Shah, Khan Bahadur  
Makhdum Syed.  
Rau, Mr. P. R.  
Ryan, Sir Thomas.  
Sarda, Diwan Bahadur Harbilas.  
Schuster, The Honourable Sir George.  
Scott, Mr. J. Ramsay.  
Seaman, Mr. C. K.  
Shafee Daoodi, Maulvi Muhammad.  
Sher Muhammad Khan Gakhar,  
Captain.  
Singh, Mr. Pradyumna Prashad.  
Smith, Mr. R.  
Tottenham, Mr. G. R. F.  
Trivedi, Mr. C. M.  
Vachha, Khan Bahadur J. B.  
Yamin Khan, Mr. Muhammad.

The motion was negatived.

**Mr. M. Maswood Ahmad:** Sir, I move:

“That at the end of clause 6 of the Bill, the following be inserted:

‘and at the end of the said sub-section the following *Explanations* shall be inserted, namely:

*Explanation 1.*—The space determined by the Governor General in Council for each pilgrim shall be marked and numbered.

*Explanation 2.*—When a pilgrim ship is under survey, a deduction of at least one and a half feet in width between two rows of marked spaces and of at least six inches in width between two marked spaces shall be made in between the decks’.”

In moving this amendment, I will not make any long speech, but only I will request you, Mr. Deputy President, that on both these *Explanations* voting should be taken separately. I will say that this is a most innocent amendment even in the eyes of the co-operators. This is a very simple amendment. The space of 16 sq. ft., or whatever it may be, should be marked. Whatever Government intend that pilgrims should actually get they must get it if Government are honest.

The second *Explanation* is that a width of one and a half feet should be given between two rows of marked spaces. My Honourable friend, Mr. Bajpai, has said that this deduction is made and the Maulana Saheb as well has said that it is made. If it is made actually, then there is no harm and I have got nothing to say but I shall say that it is not made.



**Mr. G. S. Bajpai:** Sir, I was going to correct my Honourable friend. I did not say that what he suggested in *Explanation 2* was being done. What I said was that effect will be given to the recommendations of the Haj Committee. This has no connection with what I have said about alley-way in the between decks.

**Mr. M. Maswood Ahmad:** The Maulana Saheb emphasised that it is made and Mr. Bajpai says, that would be deducted. I say that a deduction of at least one and a half feet in width between the two rows of marked spaces and of at least six inches in width between two marked spaces should be made in between the decks as well. That will be the alley-way. There should be one row and then another row and between these two rows there should be an alley-way of one and a half feet. So, Sir, I move this amendment, and I request that voting on these two *Explanations* should be taken separately, so that if one *Explanation* is lost, the other *Explanation* may be accepted by the Government. In this connection, I say that my information is what about the deduction on page 83, the Haj Inquiry Committee said:

"We consider that a similar allowance should be made in the between decks, as at present no provision for any passage way there is made at all."

The Haj Inquiry Committee further have recommended that one and a half feet alley-way should be deducted in calculation and I have mentioned that:

Sir, I move.

**Mr. G. S. Bajpai:** I think it would be just as well to explain our position to the House now. The Honourable Member, who has moved *Explanation 1* that the space determined by the Governor General in Council for each pilgrim shall be marked and numbered, and then his *Explanation 2* where he says "When a pilgrim ship is under survey, a deduction of at least one and a half feet in width between two rows of marked spaces and of at least six inches in width between two marked spaces shall be made in between the decks." As a matter of fact, reading the two together, it appears to us that what the Honourable Member is aiming at is not what is provided in recommendation (85) of the Haj Committee, namely, the allowing of an alley-way space of one and a half feet width in the between decks as is done in the case of the upper decks at the present moment, but a provision of one and a half feet between each row of pilgrims on board ship. I find on calculation that the result of that would be that, as against 16 sq. ft., which is prescribed for each pilgrim today, we should be allowing 32 sq. ft., for each pilgrim. If raising for each pilgrim from 16 sq. ft. to 18 sq. ft. makes an increase of  $12\frac{1}{2}$  per cent of the expense, which we think is excessive, *a fortiori* an increase from 16 sq. ft. to 32 sq. ft. makes a cent per cent increase in the cost and cannot be accepted.

**Mr. M. Maswood Ahmad:** Sir, the calculation of my Honourable friend is not correct. I want 6 inches between two marked berths to be allowed from here to there and then the second thing I want is that between these two such rows there must be an alley-way of one foot and six inches. It will become  $3\frac{1}{2}$  sq. ft. more. I do not say that between each seat there should be one foot and six inches. (*An Honourable Member:* "What about the third and fourth rows?") If Government are not prepared to accept the second *Explanation*, and if they are prepared to accept the first *Explanation*, that seats should be marked,

then I am ready to withdraw even the second *Explanation*. What I want is that if Government insist on only 16 sq. ft. for each pilgrim, let them do it, but they must be honest in giving it. By calculating in the present way they cheat the pilgrims. The corners, alley-ways, and other things should have been deducted. They actually should give 16 sq. ft and they should not merely say that the capacity is so much . . .

**Mr. Deputy President** (Mr. Abdul Matin Chaudhury): Under the guise of personal explanation, the Honourable Member cannot make a second speech.

**Mr. G. S. Bajpai:** Sir, my Honourable friend interrupted me before I had completed what I had to say. I explained that *Explanation* No. 2 could not possibly be accepted for the reason which I have already given, and as regards *Explanation* No. 1, I was going to point out that the Haj Inquiry Committee recommended that as an experimental measure we should go some way in the direction suggested by the Honourable Member, namely, mark out spaces capable of accommodating batches of five people, eight people, 10 people or 12 people or a similar number of pilgrims and that we propose doing that. I hope that in these circumstances my Honourable friend will see his way to withdraw his *Explanation* No. 1.

**An Honourable Member** By rules?

**Mr. G. S. Bajpai:** By rules, yes.

**Mr. S. C. Mitra:** Sir, I have not understood the explanation of my Honourable friend, Mr. Bajpai. Is he agreeable to the suggestion made here by framing proper rules to make provision to mark out spaces of 16 sq. ft. each on the deck of the steamers and number them?

**Mr. G. S. Bajpai:** No, Sir. What I said was that we are at this stage proposing to mark out spaces for each individual pilgrim. We are as an experimental measure trying the recommendation made by the Haj Inquiry Committee itself, namely, to mark out space for groups of five people, eight people or 10 people. If that works, then we shall proceed to the next.

**Mr. S. C. Mitra:** Now, I have heard my friend, but from my experience of these steamers, I can tell the House that this is no protection. In every ship, according to the space available for passengers, there is a number fixed for third class passengers and similar available fixed numbers for other classes of passengers, but in actual practice much larger than fixed numbers are packed in these steamers. I think the suggestion of my friend, Mr. Maswood Ahmad, is a very reasonable one. I do not know whether it should be left to the rule-making power to do it or it should be incorporated in the Statute itself, but steps should be taken and not to leave it to the steamer companies merely to say that on the middle deck there is space only for 500 men or in the upper deck there is space for 300 men, and, working on these averages, I have always found that they never observe this practice. Therefore, it works as a hardship for the passenger and it is a very innocent proposal, and, unless Government are determined to vote down any suggestion that is made, I think the Government should see their way to accept it.

**Sir Cowasji Jehangir:** Sir, as I understand it, the position is as follows: each pilgrim is given 16 sq. ft. Ordinarily that may mean that if there is a certain area which you measure out in sq. feet and it is  $x$  number of sq. ft. and if that  $x$  number divided by 16 gives  $y$ , then  $y$  is the number of pilgrims that would be accommodated in that area. That is what is done at present, but what the Honourable the Secretary of the Department explained was that they would by rules enforce the company to mark out squares, say for four people which would be 64 sq. feet and they would make rules whereby the company would have to accommodate only four people within that space. If it was for five people, it would be 80 sq. feet and so on.

[At this stage Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) resumed the Chair.]

By this means you would eliminate little corners which otherwise would be counted in the area available for pilgrims, little corners in which the pilgrim could not sleep or otherwise make use of. That seems a very reasonable solution of the problem; and as the Honourable the Secretary said it might lead on ultimately to squares being marked out of 16 sq. ft. each. This is a very sound beginning. I presume that each child also will be allowed 16 sq. ft. along with the adults. . . . .

**Mr. G. S. Bajpai:** That, Sir, is the position under the International Sanitary Convention: they make no distinction between children and adults

**Sir Cowasji Jehangir:** That being so, whether it be adult or child, you will mark out squares for five or six people and each square will be a multiple of 16, and, that is an assurance given by the Honourable Member to the House that that will be done by rules. I understand that is so . . . . .

**Mr. G. S. Bajpai:** That is what I have stated: that it is our intention to make a beginning experimentally and make rules for that purpose.

**Sir Cowasji Jehangir:** That is an assurance given by Government that that will be done and, under those circumstances, I do think that my Honourable friend ought to be satisfied with this, because it is a great advance. He may stipulate it in his reply, that a square shall not be for more than four persons and that they should be small squares, and that they should be reduced as Government may think fit in the future. Of course the proposal in *Explanation* No. 2, as the Secretary has explained, is for an alley-way of 1' 6" between rows, and that would simply double the accommodation which would be impossible; and, therefore, my Honourable friend, I trust, will see his way to accept the explanation given by the Government and pass on to his next amendment.

**Maulvi Sayyid Murtuza Saheb Bahadur** (South Madras: Muhammadan). On a point of information, Sir. Is it not a fact that even children will have to pay the same fare as adults, in which case alone 16 sq. ft. will be allowed? I want to get that information from the Secretary.

**Mr. G. S. Bajpai:** My Honourable friend is as familiar with the existing practice as I am: that is to say, that for children the same fare is charged as for adults: but our intention is, in accordance with the recommendations

which have been made by the Committee, to make a suggestion to the company, that they may make a concession for children between 3 and 12 years of age; but I cannot at this stage say more than that.

**Maulvi Sayyid Murtuza Saheb Bahadur:** Is it only a suggestion?

**Mr. G. S. Bajpai:** Yes.

**Mr. M. Maswood Ahmad:** Will the Honourable Member say whether this group will be for four or five or whether it will be for 100 or 200 people?

**Mr. G. S. Bajpai:** If my Honourable friend would indulge in exaggeration, it is absolutely impossible to argue. I have stated, as clearly as I can, that the intention is to mark out spaces for groups of five, eight, ten or twelve. I have not gone beyond twelve.

**Mr. M. Maswood Ahmad:** In view of the assurance given that the space will be marked for 2, 4, 8, 10 or 12—and not more than 12 at the most—I ask for leave to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

“That clause 6 stand part of the Bill.”

The motion was adopted.

Clause 6 was added to the Bill.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

“That clause 7 stand part of the Bill.”

**Mr. M. Maswood Ahmad:** Sir, I beg to move:

“That for clause 7 (a) of the Bill, the following be substituted:

‘(a) in sub-section (1):

(i) after the words ‘as may be prescribed’ the following words shall be inserted, namely:

‘and such medical officers and attendants shall give their services and medicines free to all sick pilgrims on board’.”

**Mr. G. S. Bajpai:** May I just explain, Sir, in order to save the time of the House that sub-clause (3) of clause 7 makes provision for the free provision of services by the medical officer and attendants?

**Mr. M. Maswood Ahmad:** It makes provision for free medical service, but not for free medicines and that is what I am seeking in my amendment. I have taken my wording from the wording of the Straits Settlements Ordinance. (See sub-section (2) of section 214). I want that medicines also should be supplied free of charge.

**Mr. G. S. Bajpai:** Sir, I wish to explain to my Honourable friend that his amendment implies two things: first, the provision of medical attendance free of charge and secondly provision of medicines free of charge. As regards the provision of medical attendance free of charge, I have already drawn his attention to clause 7(3) where we penalise the charging of any fee and, therefore, indirectly provide for the provision of free services by the doctor and the medical attendants. As regards medicine also, we propose to take power under our rule-making power, to provide medicines and stores free of charge by amending sub-section (j) of section 213 of the Act. Therefore, my Honourable friend's both objectives are met and I suggest that he should withdraw his amendment.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That for clause 7 (a) of the Bill, the following be substituted:

'(a) in sub-section (1):

(i) after the words 'as may be prescribed', the following words shall be inserted, namely:

'and such medical officers and attendants shall give their services and medicines free to all sick pilgrims on board'."

The motion was negatived.

**Mr. M. Maswood Ahmad:** Sir, I move:

"That in clause 7 (a) of the Bill the following *Explanations* be inserted at the end:

'*Explanation 1.*—If more than one medical officer be on a ship, the other may be a *Hakim* licensed as prescribed.

*Explanation 2.*—If the number of women carried exceeds one hundred, there shall be a lady doctor or midwife on every pilgrim ship'."

Sir, it will be found that the Haj Inquiry Committee examined many witnesses who had pressed the point that there should be some *Hakim* on board the pilgrim ship. Some people who proceed on pilgrimage are accustomed to the unani system of treatment, especially people from the villages who go in large numbers to perform the Haj are not accustomed to the allopathic treatment, and generally 90 per cent of the men in the villages are only accustomed to the unani system of treatment. Therefore, I have suggested that there should be a *Hakim* on every pilgrim ship when there are two medical officers. Here provision has been made for two medical officers, but when the number of passengers or pilgrims exceeds a certain figure, I want that one of them should be a *Hakim*.

Then, again, if the presence of a doctor is necessary for a man, I consider that the presence of a midwife is equally necessary for a woman. So as provision has been made for a doctor up to a certain number of pilgrims, I have suggested that a midwife should be employed when the number of women pilgrims exceeds 100. This midwife can examine the sick lady pilgrims and may inform the male doctor who will give the proper treatment. Sir, women in India are not accustomed to be examined by male doctors. In European countries women are examined by male doctors, but in India it is not possible for male doctors to examine ladies, and so I suggest that if the number of lady pilgrims is more than 100, there should be one midwife on board the ship.

**Mr. G. S. Bajpai:** Sir, as regards my Honourable friend's first *Explanation*, we regret we cannot accept it, because these ships are really governed by the International Sanitary Convention, and we can

only employ doctors who get internationally recognised. A *Hakim* unfortunately cannot be internationally recognised, and that is the real difficulty in this case.

As regards my friend's second *Explanation*, namely, the provision of a midwife, the position is that we intend to make a recommendation that wherever possible there shall be a qualified nurse or midwife who should preferably be a Muslim, in addition to a female attendant on every pilgrim ship carrying female pilgrims. That, Sir, is the attitude of the Government. The reason why we are not actually making a rule or inserting a provision to that effect in the Bill is that the employment being of a casual character, we may find it sometimes impossible to comply with the provision of the law.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty):  
The question is:

"That in clause 7 (a) of the Bill, the following *Explanations* be inserted at the end:

'*Explanation 1.*—If more than one medical officer be on a ship, the other may be a *Hakim* licensed as prescribed.

*Explanation 2.*—If the number of women carried exceeds one hundred, there shall be a lady doctor or midwife on every pilgrim ship.'

The motion was **negatived**.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty):  
The question is:

"That clause 7 stand part of the Bill."

The motion was **adopted**.

Clauses 7 and 8 were added to the Bill.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty):  
The question is:

"That clause 9 stand part of the Bill."

**Mr. M. Maswood Ahmad**: Sir, I move:

"That in clause 9 of the Bill, in the proposed sub-section (1A), after the words 'are duly qualified' the following be inserted:

'or by persons who are in Government service or by such private practitioners or by such licentiates whose names may appear in the Medical Council Register if such a register be maintained in India'."

Government have said that no pilgrim shall be received on board unless he produces a medical certificate signed by those persons who, in the opinion of the officer making an inspection under this section, are duly qualified to grant such certificates, etc. It is stated that only the services of those persons who, in the opinion of the officer making an inspection under this section, are duly qualified will be accepted. Sir, pilgrims go from different villages and from different places, and it is not always possible for them to get these certificates. And so, if it is insisted

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that the certificates of particular medical officers alone should be produced, it will be very difficult for the reasons I have stated. I know that my friend will seriously object to including the licentiates, because Government do not want to recognise them, but what I say is that if there is a medical register, and if the names of these people are on that register, and if they certify that such and such pilgrim has taken cholera vaccination or has been inoculated for small-pox, such certificates should be recognised and the pilgrims holding such certificates should be exempted from appearing again for a further examination. That is why I move this amendment.

**Mr. G. S. Bajpai:** Sir, my Honourable friend's objective is that there shall be elasticity that is to say, a pilgrim shall be able to get himself inoculated by a doctor near his own village. That seems to be his main objective, and I should like to inform him that it is the intention of the Government to give instructions to the port health officer that he should accept certificates issued by the Civil Surgeon or a District or Medical Officer of Health; secondly, a certificate issued by any other registered practitioner,—that is what my friend is really aiming at,—countersigned by a Civil Surgeon or a District or Medical Officer of Health. We have to provide for the countersignature there, otherwise there is absolutely no check as to whether a certificate has been issued by a duly qualified practitioner. I hope, Sir, in the light of this explanation . . . .

**Mr. M. Maswood Ahmad:** How can this countersignature be taken? Will the Honourable Member please explain?

**Mr. G. S. Bajpai:** Well, Sir, my friend is aware that the intention is to have a sort of Haj Committee functioning in the districts and it will be for the members of these Haj Committees to help the pilgrim concerned to get a countersignature. There should be no difficulty in this. There will be no charge made for it.

**Mr. M. Maswood Ahmad:** Sir, in view of the explanation given by the Honourable Member, I beg to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

**Mr. M. Maswood Ahmad:** Sir, I move:

"That in clause 9 of the Bill, for part (a) of the proposed sub-section (1A), the following be substituted:

'(a) has been inoculated against cholera within six months before the inspection; and '."

In this connection I should like to say that much has been said about the International Sanitary Convention, and they are in favour of my amendment. This is what they say at page 14:

"The crew and passengers may also be disembarked and either be kept under observation or subjected to surveillance during a period not exceeding five days reckoned from the date of arrival.

However, persons who can show that they have been protected against cholera by vaccination effected within the period of the previous six months, excluding the last six days thereof, may be subjected to surveillance, but not to observation".

Here also mention has been made of six months.

Then, Sir, the Ordinance of the Straits Settlements on which the whole Bill is based, says this:

"Section 220. (1) No pilgrim shall be received on board any pilgrim ship at any port or place in the colony, unless and until he has been medically inspected by the Port Health Officer, nor until the Port Officer has given permission for the embarkation of pilgrims to commence nor until he has obtained a pilgrim pass and a return ticket or, in the case of a pilgrim to whom written authority has been granted under section 229 (1), a ticket for the single journey.

(2) The Port Health Officer shall not permit the embarkation of any pilgrim :

- (a) who does not produce a certificate signed by a person duly qualified in the opinion of the Port Health Officer, certifying that such pilgrim has been successfully vaccinated against cholera within six months and against small pox within five years prior to the date of embarkation, provided that in the case of small pox no certificate will be required from pilgrims who show marks of having had the disease.
- (b) who in the opinion of the Port Health Officer is suffering from disease or and symptoms of the same ;
- (c) who in the opinion of the Port Health Officer is liable to transmit any contagious or infectious disease".

Sir, the suggestion that it should be for six months is in the Ordinance of the Straits Settlements and in the International Sanitary Convention. Government have said "such period not being less than one month as may be prescribed". This is not satisfactory. I say, there should be a definite mention of six months. I move my amendment.

**Mr. G. S. Bajpai:** The reason why I have risen is to save the time of the House. This morning my Honourable friend thought that the Straits Settlements Ordinance was the most retrograde measure in existence, but now he is drawing upon that measure in order to support his argument. However, animated as I am by great goodwill towards my Honourable friend, I am prepared to accept this retrograde amendment, though I would explain that it would not stop short at the word which he has mentioned. The amendment would then be "has been inoculated against cholera within six months". The words "or such period not being less than one month as may be prescribed" will go out; "before the inspection" will remain and then the words "if the inoculation has been single or within three months before the inspection if the inoculation has been double" will also go out.

**Mr. M. Maswood Ahmad:** I accept the amendment. I put it in the way I have done, because it will decrease the trouble.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Chair must have the amendment. We will now proceed to the next amendment, until this is ready.

**Mr. M. Maswood Ahmad:** I move:

"That in clause 9 of the Bill, in part (b) of the proposed sub-section (1 A), for the words 'three years' the words 'five years' be substituted."

Again I base my argument on the Ordinance of the Straits Settlements. Here the words used are "small pox within five years prior to the date of



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embarkation" and, as my Honourable friend has accepted one amendment based in this Ordinance, I hope he will accept this also.

**Mr. G. S. Bajpai:** I made it clear when I accepted the other amendment that it was not because it was based on the Straits Settlements Ordinance, but out of goodwill for my friend, and, in the same spirit of goodwill, I accept the second amendment.

The motion was adopted.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): We will take up clause 9 later on, and let us proceed with clause 10 now.

**Khan Bahadur Haji Wajihuddin:** Sir, I move:

"That in clause 10 of the Bill, for the words and figures 'For the proviso to section 208A of the said Act' the words and figures 'Clause (a) of section 208-A of the said Act shall be omitted and for the proviso to the said section' be substituted."

In spite of the Muslim public clamouring for the abolition of the return ticket which has only worked to the detriment of the pilgrims and, in the face of unanimous recommendation of the Haj Inquiry Committee and opinions of all the unofficial members of the Standing Haj Committee (Meetings held at Simla on the 12th and 13th September, 1931), unanimous opinions of the Haj Committees of Bombay, Calcutta and Karachi and the opinions of all those (with the exception of a few interested parties) who submitted written statements and who were examined by the Haj Inquiry Committee, the Government still propose to retain the option of return tickets. The *option* provided in the Bill for purchase of return ticket or deposit of the return fare with the Government is *ineffective and only remains on paper* as could be seen from numbers of the pilgrims buying return tickets and making deposit figures were quoted by me only yesterday. It is wrong to conclude that larger number of pilgrims going in for return tickets mean that pilgrims favour that system, but the truth is that interested shipping companies induce the pilgrims to buy return tickets through armies of touts, brokers and canvassers and make manipulations in rates and thus the poor ignorant pilgrims fall an easy prey to their activities. Fears were entertained by my Honourable friend, Mr. Bajpai, in his speech yesterday that in case of single tickets the shipping companies would not keep their ships at Jeddah for immediate return of pilgrims. I may say with full confidence and personal knowledge that the fears entertained by my esteemed friend never materialised in the past when single tickets were issued for ages and, to speak in the words of the British Minister at Jeddah as stated by him before the Haj Inquiry Committee:

"Ships will be waiting for pilgrims instead of pilgrims waiting for ships."

On the contrary, the return ticket holders have to wait for longer periods and the shipping companies with immunity make them wait for the prescribed period on the return journey. The shipping companies having issued return tickets are not in a hurry to despatch steamers for the return pilgrims as the pilgrims cannot buy tickets for return journey from other companies on account of their having bought return tickets, but in case of single tickets with deposits, the pilgrims would

be at liberty to buy tickets of the ship which would be sailing at the earliest time and as such the shipping companies *would race their ships* in order to secure pilgrims on the return voyage. These are the advantages besides others including chances of *competition* on the return voyage. Besides this, single tickets were being issued in the past for a number of years and *at no time it has happened that pilgrims having enough money in hand for the return passage have been detained for want of shipping available even for a short period.*

When the objects of Government to avoid pilgrims becoming destitutes and source of expense are amply served by making deposits compulsory, still if the Government insist on retaining the return ticket, it can only be surmised that they want to favour the only shipping company which is now virtually enjoying monopoly. The retention of return tickets would perpetuate the monopoly.

The anxiety of the shipping company to see that the return tickets are retained is to make things hard for small shipping companies to enter the pilgrim traffic so that they can enjoy the unavoidable monopoly of the trade. It is, therefore, imperative both in the interests of the pilgrims and the Indian shipping that this amendment be adopted and I appeal to my friends here to support me unanimously. If that is not done, Muslims will hereafter realise the grave mistake committed.

Sir, I move my amendment.

**Mr. M. Maswood Ahmad:** On a point of order, Sir, I think this amendment is beyond the scope of the Bill. Clause 10 aims at amending the proviso, and my Honourable friend here has brought forward an amendment to omit clause (a) of section 208-A, that is, he wants to omit the whole system of return tickets. So, I think this is beyond the scope of the Bill. The scope of the Bill was about the proviso and the point at issue is that the proviso should be changed—not the whole system of return tickets. So, I think this is beyond the scope of the Bill.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Mr. Bajpai.

**Mr. G. S. Bajpai:** Well, Sir, I must leave it to the Chair to decide as to whether this is outside the scope of the Bill or not.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): What has the Honourable Member to say on that? It is so difficult to understand the scope of this Bill.

**Mr. G. S. Bajpai:** Well, Sir, certainly the abolition of the return ticket system is outside the scope of the Bill.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Amongst the purposes for which the Merchant Shipping Act is sought to be amended, the abolition of the system of return tickets is not included? (*Mr. G. S. Bajpai:* "No.") If that is so, then the amendment is out of order.

**Mr. M. Maswood-Ahmad:** Sir, I rise to move:

"That in clause 10 of the Bill, after the proposed *Proviso* to section 208A, the following *Proviso* be inserted:

'Provided, further, that the prohibition shall not apply in the case of any such pilgrim who has filed a declaration in such form as may be prescribed before an authority appointed by the Port Haj Committee that he does not intend to return to India by the same route or within one year'."

The proviso proposed by my Honourable friend runs:

"Provided that the prescribed person may exempt any pilgrim from any or all of the above requirements, if he is satisfied that it is inexpedient, in the special circumstances of the case, to enforce them."

I suggest, Sir, that a mere declaration should be sufficient for all purposes, as it would be very difficult to satisfy the prescribed person. If I say that I do not intend to go by a certain route, what will be the data for me to lay before the prescribed person in order to satisfy him if the officer says, he is not satisfied with my suggestions? So, I appeal to my Honourable friend, Mr. Bajpai, that a mere declaration should suffice. If before the prescribed authority a man comes and makes a statement or submits an application mentioning his intention, that so much should be sufficient, and there should be no need of "satisfying" the officer. It would be very very difficult, in actual working, to "satisfy" the officer. Some Honourable Members have said that I have not gone to the Hedjaz and that, therefore, I cannot say these things, but actually I know many things about it. My mother has gone there, I have had to take her on board the ship, I have seen the conditions on board ship, I know all these things. When Mr. Chadwick and Mr. Graham can represent Muslim pilgrims in the International sanitary convention, I can represent them in a better manner. Besides many friends have told me that it will be very very difficult to satisfy the prescribed officer. At the Committee stage on several occasions I informed the Honourable Member in charge that pilgrims do experience very great difficulties in Jeddah and other places. So, if the words about "satisfaction" of the prescribed officer remain, it will be very very troublesome and I do not want to say anything more. So, I say that a mere declaration in a written form before the prescribed officer should be sufficient, and that is the aim of this amendment.

**Mr. G. S. Bajpai:** Sir, I regret I am not in a position to accept this amendment. It will really have the effect of rendering the proviso that we propose entirely nugatory. We were not satisfied with the present provision in the Act because, as was explained by the Honourable Sir Frank Noyce, when he moved for the Bill to be referred to a Select Committee, this provision had proved ineffective in the matter of preventing people from being stranded at the end of the Haj in Jeddah without funds. A considerable number had, in spite of this provision, in fact a growing number had come to be stranded, and we, therefore, thought that it was necessary to make a provision so as to make the restriction more stringent. Not only did we think that, but that was the recommendation of the Haj Inquiry Committee. Now, what my Honourable friend proposes is that we should go back to the system of declaration, merely on the strength of the recommendation of the local Haj Committee. I submit, Sir, that the officer who will be authorised to make the exemption will be acting in close consultation with the Haj Committee, and that, therefore, in all deserving cases the requisite exemption will be made, but in other cases it will not be made. Sir, I oppose the motion.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty):  
The question is:

"That in clause 10 of the Bill after the proposed *Proviso* to section 208A the following further *Proviso* be inserted:

'Provided, further, that the prohibition shall not apply in the case of any such pilgrim who has filed a declaration in such form as may be prescribed before an authority appointed by the Port Haj Committee that he does not intend to return to India by the same route or within one year'."

The motion was negatived.

Clause 10 was added to the Bill.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty):  
The question is:

"That in clause 9 of the Bill, for part (a) of the proposed sub-section (1A), the following be substituted:

'(a) has been inoculated against cholera within six months before the inspection, and'."

The motion was adopted.

Clause 9, as amended, was added to the Bill.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty):  
The question is:

"That clause 11 stand part of the Bill".

**Mr. M. Maswood Ahmad:** Sir, I move:

"That in clause 11 of the Bill, in sub-section (1) of the proposed section 208 B, after the word 'passage-money' the words 'which in the case of a child between three and twelve years of age shall be half and nothing in the case of children under three years of age' be inserted."

Sir, this is a very very important amendment which I am moving on the floor of the House, in fact this is the most important of all the amendments which I have moved up till now. The present Bill aims at this object:

"Every pilgrim travelling on a pilgrim ship shall be entitled, on payment of his passage-money and fulfilment of other prescribed conditions, if any, to receive a ticket in the prescribed form, and shall be bound to produce it to such officers and on such occasions as may be prescribed and otherwise to deal with it in the prescribed manner."

After this amendment, it will read thus:

"Every pilgrim travelling on a pilgrim ship shall be entitled, on payment of his passage-money, which in the case of a child between three and twelve years of age shall be half and nothing in the case of children under three years of age," etc., etc.

It means that the fare for a child under twelve years should be half and nothing should be charged for a baby under three years of age. Sir, in this connection one point will be raised by my Honourable friend, Mr. Bajpai, that the International Convention says that the same space of 16 sq. ft. should be given to a child, and as it is suggested that a 16 sq. ft. space should be given to a child, so the full amount should be charged for the fare of the child. But, I say that, in interpreting all these rules and Acts, we should take into consideration the spirit and the spirit is that

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everyone should get a space of 16 square feet. It was in the interests of the pilgrims, but here Government interpret it in favour of Turner Morison and Company. My Honourable friend, Sir Joseph Bhore, who is in the House, is smiling at this suggestion. Now, what happens in the Railways. I am sorry I have not brought a copy of the rules, but I am sure, my Honourable friend will remember that the wording is that even a boy under 12 years of age is entitled to a full berth in the second and first class compartments though the fare paid is half. My Honourable friend, Sir Joseph Bhore, has not said, neither did Sir George Rainy say, that because you pay half the fare, half the berth should be reserved. The same remarks apply here. I ask my Honourable friend, Mr. Bajpai, to take the same view. Although the International Sanitary Convention thought that 16 sq. feet space is quite unfair, yet they thought that children as well should get 16 sq. feet. So, it may be of some consideration, and it should be interpreted in this light that though a boy should get 16 sq. feet space, the charge should remain half. In this connection, I am glad to say that the Turner Morison Company has gone farther than the recommendations of the Government. Here is a book published by the North Western Railway Publicity Officer, Lahore. In this book I find that they have mentioned :

*Bárá sál sé kam umar larkon ke liyé kiráyá nisf hogá.*

I think this year they have charged half for the child. I do not know on what authority the North Western Railway Publicity Officer has published this pamphlet, but if this pamphlet is correct, then the Turner Morison and Company have themselves charged half the fare for children, the only difference being that they have exempted the babies under one year. I say that babies up to three years of age should be exempted just as is done in the case of Railways. That is the aim of this amendment. In these days, Sir, when everything has become very cheap, and there is general depression, the Steamship Company has not reduced the fare. It is still Rs. 160 as it used to be in olden days. So I suggest that Government should consider the point that the value of money has gone high. If they can force the Turner Morison Co. to supply food at Re. 1 per diem, I am sure, they can force the Company to charge half the amount for children also. They will not be consistent if they say that they cannot force the Company on this point. If they think that the demand is just, they must help the public, they must help the pilgrims and they must help us in this matter. But if they take shelter under the plea that they cannot force the Company, then it will not satisfy the Mussalmans in India. With these words, Sir, I move my amendment and I hope my Honourable friends, Maulana Murtuza Sahib and Maulana Shafee Daoodi, will also support me.

**Maulvi Sayyid Murtuza Saheb Bahadur:** Mr. President, I rise to support my Honourable friend, Mr. Maswood Ahmad, but, in doing so, I must place one side of the case before the House. This question was raised by me in the Select Committee and we were assured by the Honourable Sir Fazl-i-Husain that this point had already been discussed in the International Sanitary Convention. They did not meet with success

at the outset, but that this point would be again impressed on the Convention. They could not do anything else. I will, therefore, simply remind the Honourable Member and his Secretary that this point should not be lost sight of and that they should see their way to bring to the notice of the International Sanitary Convention that it is unjust and unreasonable on their part to demand the same fare from the children as they demand from adults and that it should be done away with.

**Mr. G. S. Bajpai:** I would merely say, Sir, that we have, as proposed by the Haj Inquiry Committee, already brought to the notice of the Shipping Companies that children under three years may be carried free and those between 3 and 12 years at half rates. It is understood that except when there is a heavy demand for passengers at full rates, the Company generally gives free concession in the case of young children and I can assure my Honourable friends that we shall keep an eye on this, that is to say, the suggestion will be pressed from time to time if it is not carried out.

**Maulvi Sayyid Murtuza Saheb Bahadur:** But what about the technical difficulties in your way?

**Mr. G. S. Bajpai:** I can assure the Maulvi Sahib that whenever we get an opportunity we shall try to do what we can to remove that difficulty.

**Mr. M. Maswood Ahmad:** But what is the trouble in accepting this amendment?

**Mr. G. S. Bajpai:** The trouble in accepting the amendment is this, that until we get the International Sanitary Convention to withdraw this obligation from Shipping Companies, we cannot in equity compel the Companies to make these concessions. We can only as an *ex gratia* arrangement ask them to give these concessions until such time as the obligation of providing the same space for a child as is provided for an adult has been done away with.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That in clause 11 of the Bill, in sub-section (1) of the proposed section 208-B, after the word 'passage-money' the words 'which in the case of a child between three and twelve years of age shall be half and nothing in the case of children under three years of age' be inserted."

The motion was negatived.

**Mr. M. Maswood Ahmad:** I move, Sir, the next amendment standing in my name. It runs thus:

"That in clause 11 of the Bill, in sub-section (1) of the proposed section 208-B, after the word 'passage-money' the words 'which in the case of a child under twelve years of age shall be half' be inserted."

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): It is covered by the previous amendment.

**Mr. M. Maswood Ahmad:** No, Sir. The wording is different and the meaning is different. The meaning of the previous amendment was that children under three years should be exempted and those words are not mentioned here. This amendment relates only to children under 12 years of age.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): But the question of giving a concessional fare to children under 12 years of age has also been considered and negatived.

**Mr. M. Maswood Ahmad:** I move:

"That in clause 11 of the Bill, in the *proviso* to sub-section (1) of the proposed section 208-B, the words 'other than a return ticket' be omitted."

**Sir Muhammad Yakub:** May I remind you, Sir, that this point has already been dealt with and you have ruled it out of order?

**Mr. M. Maswood Ahmad:** My Honourable friend is right and I am sorry, Sir, for having moved it. The point covered by this amendment has been declared out of order.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): So, this amendment is out of order.

**Mr. M. Maswood Ahmad:** Sir, I move:

"That in clause 11 of the Bill, after the *proviso* to sub-section (1) of the proposed section 208-B, the following *Explanation* be inserted:

'*Explanation.*—There shall be two kinds of tickets, class A and B'."

**Mr. G. S. Bajpai:** Sir, I should like to rise to a point of order on this. My Honourable friend, by amendment No. 37, seeks to add an *Explanation* that there shall be two kinds of tickets, class A and class B. Then, by amendment No. 41, he defines these two classes:

"Any ticket, classed A, issued to a pilgrim for a voyage on a pilgrim ship shall entitle him to receive food, fuel and water, and the ticket, classed B shall entitle him to receive fuel and water," etc.

Now, Sir, I submit that the House by accepting clauses 2, 3 and 4, which ruled out the obligation of the shipping company to provide fuel, has negatived this and that this is not in order.

**Mr. M. Maswood Ahmad:** Sir, there is no trouble in accepting this. In clause 2, no doubt the obligation of the shipping company has been taken away about giving fuel. I am not saying anything about that; I want that the tickets should be of two classes. A and B, of which one should be with food and the other without food. Suppose a man takes a ticket without food and takes *chura* and *chhattu*, he will not require any fuel. So, by the acceptance of clauses 2, 3 and 4, this is not out of order, because I say that the tickets will be of two kinds, with food and without food. That was a question about fuel and this is quite different.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): In clauses 2, 3 and 4, the House considered the question whether the compulsory obligation to supply food to the passengers must be imposed on

shipping companies. The House has taken a definite decision on that point and, therefore, any amendment which would permit of a ticket being issued under which it is not obligatory for the company to supply food is out of order.

**Mr. M. Maswood Ahmad:** Sir, I beg to move:

"That in clause 11 of the Bill, to sub-section (2) of the proposed section 208-B, the following *Explanations* be added:

*'Explanation 1.*—The food supplied to pilgrims shall be good and prepared by Muslims and should be supplied to pilgrims under Muslim supervision.

*Explanation 2.*—Articles which may be objectionable according to Islamic *Shariat* shall not be used in preparing the food for pilgrims'."

Sir, when we have been defeated on the amendments and it will be compulsory for the next Haj season that pilgrims will have to pay a certain amount and they will get cooked food, I say that the word "good" must be added. The words "good food" I have taken again from the same Ordinance. Here in the Bill I do not find the word "good". I do not find it in the present Bill or in the Act. So I say that if a backward country like the Straits Settlements has taken care of its subjects and have made it compulsory on the part of the shipping company that the food must be good, the Indian Government as well should be in sympathy with the pilgrims and they should also have the word "good" before the word "food".

The second item is that these foods should be prepared by Muslims. In this connection I have said on several occasions that there is one section among Muslims who are called Shias and according to their *Shariat* they cannot eat anything touched or cooked by any one except Muslims. That is essential for them. And apart from this, pilgrims who go to perform the Haj will be full of religious observances and all these things and their feelings must be respected and the food which will be supplied to them must be prepared by Muslims and should be under the supervision of Muslims. *Explanation 2* is the same. It should be clearly mentioned that any article, which, under the Islamic *Shariat*, is unacceptable or objectionable, should not be used in preparing the food.

**Sir Muhammad Yakub:** Sir, I have every sympathy with the amendment which my Honourable friend has moved. But I think that such provisions should come under the rules and not in the Act itself, and, therefore, I do not think that we should press that they should come in the Statute itself. We may ask Government to make such provisions in the rules and I hope they will do it, because it is really extremely necessary that such provisions should be made in the rules, specially in the case of the Shia pilgrims. The Shias, according to their *Shariat*, cannot eat anything which is cooked or prepared by non-Muslims. Therefore, the interests of all classes of pilgrims should be protected and this provision should find a place in the rules.

**Maulvi Muhammad Shafee Daoodi:** Sir, a distinction between Shias and Sunnis need not be made on this question; it is only proper that Government should guarantee it and see that it is carried out in spirit.



**Mr. G. S. Bajpai:** Sir, Government feel that the best way to ensure the achievement of these two objectives is to have Muslim cooks provided. The rules provide for that already and Government undertake to see that they are carried out.

**Mr. M. Maswood Ahmad:** Sir, in view of the assurance given by Government, I beg leave to withdraw the amendment.

The amendment was, by leave of the Assembly, withdrawn.

**Khan Bahadur Haji Wajihuddin:** Sir, I beg to move:

"That in clause 11 of the Bill, sub-section (5) of the proposed section 208 C be omitted."

This sub-section provides for deduction to be made from refunds under sub-sections 1, 2, 3 and 4 which is unjust in view of there being no provision made penalising shipping companies for not sailing their ships on the advertised dates on account of any unavoidable circumstances. The pilgrims also under these sub-sections would be unable to sail on account of unavoidable circumstances. This argument is supported by the following extracts. P. & O. Handbook, page 4:

"Passengers holding tickets, but failing to embark, are liable to forfeiture of half the cost of the Passage Ticket, while those for whom the accommodation has been provisionally reserved are liable to forfeit the full sum deposited. But in the case of a passenger being unavoidably prevented from embarking, a transfer to a subsequent steamer can be effected on sufficient notice being given, *without forfeiture of any portion of the deposit paid.*"

The extracts from the rules regarding the refund of Railway fares at page 138 of the G. I. P. Railway Time Table and Guide:

"18 (56) *Passengers unable to use their tickets.*—Passengers who have taken tickets at a station, but who for want of room in the train, or *any other cause* cannot commence their journey, should apply to the Station Master, who will refund the fare provided the ticket is given up within 3 hours after the departure of the train."

Emigration Ships Rules, para. 62:

"Steerage passengers who are landed for medical reasons are entitled to *subsistence* money until they have been re-embarked or have declined or neglected to proceed, or until their passage money has been returned to them, or they have refused to accept it. If they are not re-embarked, or do not finally sail in the ship, they are also entitled to the return of the *whole* of the passage money. The emigration officers will assist steerage passengers in obtaining the same which may be due to them."

Emigration Ships Rules, para. 66:

"Any question as to the breach or non-performance of any stipulation in a contract ticket may be tried before a court of summary jurisdiction, and damages awarded up to \$20 in addition to the passage money. But damage cannot be obtained under this provision if the passenger has already obtained redress or compensation under the Act in the same matter."

Emigration Ships Rules, para. 67:

"If an emigrant ship is, owing to a *casualty*, unfit to proceed on the voyage, a written undertaking must be given to the emigration officer that the steerage passengers will be forwarded to their destination within six weeks, and during the interval they *must be maintained at the expense of the ship*. If they are not forwarded within six weeks the passage money may be recovered."

It can clearly be seen from these quotations that refunds are universally made without any deductions and in case of emigrant ships, the passengers are further protected by award of damages and subsistence money at the expense of the ship when passengers are re-landed for medical reasons and

the rules go still further and make it liable for the expense of maintenance of passengers in case they are detained on account of ship being unfit to proceed on the voyage owing to a casualty whether it may be due to avoidable or unavoidable circumstances.

As regards sub-sections 2, 3 and 4 the passage money would remain with the shipping company for a period which may extend to 18 months and the company would earn interest thereon which should be more than sufficient compensation to the company if at all any compensation is necessary.

Under the circumstances, clause (5) of section 208 (c) providing for reduction is absolutely uncalled for and unjustifiable and, therefore, it should be omitted. I, therefore, move my amendment.

**Mr. G. S. Bajpai:** Sir, my Honourable friend has cast his net much too wide altogether. This sub-clause relates to "refunds under sub-sections (1), (2), (3) and (4) which shall be subject to such conditions and of passage-money to such deductions and conditions as may be prescribed". It is not merely a question of deductions, it is also a question of conditions. Coming first to deductions, on the advice of the Standing Haj Committee, Sir, we have come to the conclusion that when the rules are next revised we shall prescribe that no deduction shall be made first if the pilgrim is not allowed to sail on medical grounds, secondly, if he is a *bona fide* relative of another pilgrim who comes under the first category, and, thirdly, if he shows that satisfactory reasons for not sailing are given and the shipping company is also given three days' clear notice—if these three conditions are satisfied, it is our intention that the rules shall provide for a refund without deduction. Beyond that, we regret to say, that in the matter of exemption from deductions we are not prepared to go at the present moment. Then, Sir, we come to the question of conditions. What my Honourable friend does not seem to realise is that the Bill also contemplates refund to relatives of pilgrims who have died or who do not propose to return from the Hedjaz. Now, under this sub-clause, we shall have the power to prescribe the conditions such as the production of the coupon of a return ticket. If the clause is omitted, we shall not be able to do that and the result will be that pilgrims and their representatives will suffer. For these reasons, I oppose the amendment.

**Khan Bahadur Haji Wajihuddin:** Sir, I beg leave to withdraw the amendment.

The amendment was, by leave of the Assembly, withdrawn.

**Mr. M. Maswood Ahmad:** Sir, I beg to move:

"That in clause 11 of the Bill, at the end of sub-section (1) of the proposed section 209 the words 'which shall be transferred to the Haj Fund' be added."

We find in the proposed sub-section 209 (1):

"All deposits made under section 208A which have been unclaimed for the prescribed period shall become the property of Government."

The intention of the Government is that this fund should be transferred to the Port Haj Committee, and as far as I remember when the question of Port Haj Committee was under discussion at Simla, certain clauses from there were omitted by the amendments moved by Government themselves and on that occasion they said that there was some mention of some sub-sections of a Bill which had not yet been passed. So, Sir, that was not

[Mr. M. Maswood Ahmad.]

necessary in this Bill, if this Bill would have been passed first, and then the Port Haj Committee would have taken and that clause would have remained there, but when it has been taken away from that Bill, it is necessary to mention it here that this money will go to the Port Haj Committee and this amendment seeks only this much, *i.e.*, the same intention of the Government which they want that all the deposits made under section 208A which have been unclaimed for the prescribed period shall become the property of the Government which shall be transferred to the Haj Fund. We want to make it clear that what Government want should come into the Statute and that was, I believe, the intention of the Government to keep it in the Statute. This is the aim of this amendment. Sir, I move.

**Mr. G. S. Bajpai:** Sir, I should like to explain to my Honourable friend that this amendment is superfluous. In this connection I would draw the attention of the House to the speech made by the Honourable Sir Frank Noyce when the Haj Committee's Bill was being considered in September, 1932. On that occasion, Sir, it was pointed out that the Government were taking power to allot to the Haj Committee any sums which they choose. That power, Sir, has been taken under the Bill which is now law, and it is the intention of the Government to exercise that power to transfer these funds to the Haj Committee.

**Mr. M. Maswood Ahmad:** I do not withdraw, Sir.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That in clause 11 of the Bill, at the end of sub-section (1) of the proposed section 209 the words 'which shall be transferred to the Haj Fund' be added."

The motion was negatived.

**Mr. M. Maswood Ahmad:** Sir, I move:

"That in clause 11 of the Bill, at the end of sub-section (2) of the proposed section 209, the words 'which shall be transferred to the Haj Fund' be added."

In section 209, there are two kinds of funds which will lapse to the Government, and I suggest that the second as well should go to the Haj Fund. My Honourable friend, Mr. Bajpai, has said that this is the intention of the Government that they would transfer any amount they choose. It is quite strange that Government have changed their idea now. Up to that time their idea was that it should be mentioned in the Statute that these funds will be transferred to the Haj Fund and now they want to have it on their choice. If they will choose, they will transfer and if they will not choose, they will not transfer. Therefore, I am not satisfied with this state of affairs and I am not going to leave it at their choice and I am not satisfied that in all these funds the amounts should lapse to the Government. I, therefore, move, Sir.

**Maulvi Muhammad Shafee Daoodi:** Sir, I would like to know from the Member in charge of the Bill as to why this money, which, we understood at the time, will all go to the Haj Fund—why provision is now made which is going to give the choice to Government?

**Mr. G. S. Bajpai:** No, Sir: I am afraid my Honourable friend has misunderstood me. I did not say it was the choice of Government. Government's intention was to transfer all the sums derived from this source to the Haj Fund.

**Mr. Uppi Saheb Bahadur:** May I know from the Honourable Member, if that is the Government's intention, what is the harm in having it in the Statute?

**Mr. G. S. Bajpai:** Because another Statute already gives to Government power to make the necessary transaction. That is the only reason.

**Mr. M. Maswood Ahmad:** Those three clauses have been withdrawn from that Bill.

**Mr. President** (The Honourable Mr R. K. Shanmukham Chetty): The question is:

"That in clause 11 of the Bill, at the end of sub-section (2) of the proposed section 209, the words 'which shall be transferred to the Haj Fund' be added."

The motion was negatived.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That clause 11 stand part of the Bill."

The motion was adopted.

Clause 11 was added to the Bill.

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**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Chair now proposes to take up the Supplementary List of Business contained in the Supplementary Agenda for today.

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#### THE SAFEGUARDING OF INDUSTRIES BILL.

**The Honourable Sir Joseph Bhore** (Member for Commerce and Railways): Sir, with your permission, I beg for leave to introduce a Bill to provide for the imposition of additional duties of customs on imported goods for the purpose of safeguarding industries in British India.

The motion was adopted.

**The Honourable Sir Joseph Bhore:** Sir, I introduce the Bill.

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#### THE INDIAN TARIFF (AMENDMENT) BILL.

**The Honourable Sir Joseph Bhore** (Member for Commerce and Railways): Sir, with your permission, I beg for leave to introduce a Bill further to amend the Indian Tariff Act, 1894, for a certain purpose.

The motion was adopted.

**The Honourable Sir Joseph Bhore:** Sir, I introduce the Bill.

The Assembly then adjourned till Eleven of the Clock on Monday, the 10th April, 1933.



# LEGISLATIVE ASSEMBLY.

*Monday, 10th April, 1933.*

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) in the Chair.

## QUESTIONS AND ANSWERS.

### CAUSES OF THE DEATH OF ONE HAJEE VAJEEHUDDIN.

1165. \***Maulvi Sayyid Murtuza Saheb Bahadur:** (a) Will Government be pleased to state the causes of the death of one Hajee Vajeehuddin?

(b) What is the report of the British Minister at Jeddah relating to the said Hajee's death? Will Government be pleased to lay it on the table?

(c) Is it a fact that when passengers are on board the ship, the crane should not work and that, owing to the rule of the shipping company having not been observed, the death of the said Hajee Sahib was caused?

(d) If the shipping company's negligence or non-observance of the rules has resulted in the said death, was any action taken against the company? If not, do they propose taking any action or not? If not, why not?

(e) Has any compensation been given to the bereaved family of the deceased? If not, do Government propose to get the bereaved family reasonable compensation?

**Mr. G. S. Bajpai:** Government have not received any report from His Majesty's Minister at Jeddah regarding the death of any pilgrim named Hajee Vajeehuddin. They are now making enquiries and the result will be communicated to the House in due course.

**Mr. M. Maswood Ahmad:** Is there any one on behalf of Government to see that the instructions and rules issued and framed by Government are followed on the ship?

**Mr. G. S. Bajpai:** There is a Protector of Pilgrims at every port now and, in addition, we have got the Haj Committees.

**Kunwar Hajee Ismail Ali Khan:** May I know if these Haj Committees are working?

**Mr. G. S. Bajpai:** We asked the Local Governments some months ago to set up these Haj Committees under the Act which was passed in the Simla Session. I could not say offhand whether they have actually been functioning or not.

**Maulvi Sayyid Murtuza Saheb Bahadur:** Will Government find out whether these Port Haj Committees have been set up?

**Mr. G. S. Bajpai:** Certainly.

**REFUSAL OF PERMISSION TO CERTAIN PERSONS TO PROCEED TO MECCA.**

1166. **\*Maulvi Sayyid Murtuza Saheb Bahadur:** (a) Is it a fact that some respectable Muslims, such as Maulana Hasrat Mohani, Maulana Ismail Ghuznavi and a few others including some respectable lady pilgrims were not permitted to proceed to Mecca by the last steamer *S. S. Riznavi*? What are their names and their representative character?

(b) Will Government please state the reasons for their detention?

**Mr. H. A. F. Metcalfe:** (a) Of the persons named, it is understood that Maulana Hasrat Mohani has already proceeded to the Hedjaz. Government have no information as to any persons having been refused facilities for proceeding to the Hedjaz by *S. S. Riznavi* except Maulana Ismail Ghuznavi who has been refused a pilgrim passport under the orders of Government.

(b) The reasons for Government's action in this case are that the person named has an extremely bad record for anti-Government activity both in India and abroad. He has twice been convicted and imprisoned for anti-Government activities in India and Government have knowledge that he has attempted not only to bring Government into hatred and contempt among Indian pilgrims, but also to create hostile feelings between His Majesty's Government and the Government of a foreign country. As recently as January, 1933, he issued a pamphlet entitled "Necessary information for Indian Hajis" which contained very gross insinuations against His Majesty's Government as the enemy of Islam. Taking these facts into consideration, Government decided that a person of such dangerous political tendencies could not be granted facilities for pursuing his activities in a foreign country.

**Maulvi Sayyid Murtuza Saheb Bahadur:** May I know if Government were not aware of his political activities when passport was issued in his favour?

**Mr. H. A. F. Metcalfe:** I am not aware when a passport was issued in his favour.

**Maulvi Sayyid Murtuza Saheb Bahadur:** Will Government be pleased to ascertain whether it is a fact that passports were actually issued in his favour and that he was refused to proceed to Mecca just at the time of embarking?

**Mr. H. A. F. Metcalfe:** I will make inquiries on that subject, but I have no knowledge whether he possesses a passport.

**Mr. S. C. Mitra:** Did Government ask for any undertaking from this gentleman that he will not take part in any political activities while he was performing his Haj?

**Mr. H. A. F. Metcalfe:** No.

**Mr. S. O. Mitra:** Why then do Government restrict a man from performing his binding religious duties without ensuring that he is not willing to give an undertaking to this effect?

**Mr. H. A. F. Metcalfe:** With regard to the suggestion that he has been prevented from performing his binding religious duties, I think the House should know that this gentleman has already proceeded to Mecca not less than 18 times.

**Dr. Ziauddin Ahmad:** If a man has safely performed Haj for 18 times, he might be allowed to perform it for the 19th time?

**Mr. H. A. F. Metcalfe:** That is a question of opinion on which I venture to disagree with the Honourable Member.

**Dr. Ziauddin Ahmad:** Muslim opinion is very strong on this point. Performing the Haj as many times as possible is a great blessing.

**Mr. M. Maswood Ahmad:** Do Government propose that a Mussalman should not perform certain number of pilgrimages? What is the maximum limit in the opinion of the Government?

**Mr. H. A. F. Metcalfe:** Government have no desire to place any restriction whatever on the legitimate performance of religious duty. What they object to is to a person obtaining facilities from Government in order to go and work against Government in a foreign country.

#### PROMOTIONS TO THE GRADE OF INSPECTORS OF POST OFFICES AND RAILWAY MAIL SERVICE.

1167. **\*Mr. Muhammad Azhar Ali:** (a) Is it a fact that under the rules an official above 35 years of age in the Post Offices and Railway Mail Service is not eligible for Inspector's appointment?

(b) Is it a fact that many of the officials selected for the Inspectors' examination, which could not be held owing to the introduction of the lower selection grade examination, were above 40 years of age on the date of the first lower selection grade examination, but notwithstanding this they were allowed to appear for it?

(c) Is it a fact that some of such officials as referred to in part (b) above were declared to have passed the examination after having appeared in only two subjects instead of four, and that they, having not been provided for in the selection grade till the abolition of the lower selection grade examination, are now placed on the list of candidates approved for appointment as Inspector in Post Offices and Railway Mail Service?

(d) Is it a fact that the Director-General of Posts and Telegraphs has issued instructions to all Heads of Circles that officials, who were selected for the Inspectors' examination and allowed to appear in the lower selection grade examination held in 1919 and actually passed it, should be only considered as eligible for Inspectors' appointment?

(e) If the reply to part (b) be in the affirmative, will Government please state whether the fact stated in part (c) is in consonance with the Director General's instructions in regard to Inspectors' appointments?



(f) If not, will they please state what action they now propose to take in view of the practice prevalent in various Circles?

**Sir Thomas Ryan:** (a) The fact is not as stated by the Honourable Member. The age-limit of 35 years is in regard only to the eligibility of an official to appear at the new Inspectors examination.

(b) Government have no precise information but the facts are probably as stated by the Honourable Member.

(c) The reply to both the parts of the question is substantially in the affirmative.

(d) Yes, if by the "1919" examination the Honourable Member means the '1929' examination.

(e) If by 'Director General's instructions', the Honourable Member refers to the rule referred to by him in part (a) above, he will see from the reply to that part that there has been no inconsistency.

(f) Does not arise.

#### INITIAL PAY OF GRADUATES IN THE POST OFFICES.

1168. **\*Mr. Muhammad Azhar Ali:** (a) Is it not a fact that prior to 19th September, 1930, there was no order discriminating between graduates of arts, science, or commerce for the purpose of starting pay in the Posts and Telegraphs Department?

(b) Is it not a fact that graduates and under-graduates in commerce were actually recruited on a higher starting pay admissible to graduates and under-graduates in arts and science, and that they were allowed to draw the higher rate of pay for several years?

(c) Is it not a fact that on the 19th September, 1930, an order was issued giving the benefit of higher starting pay in the Posts and Telegraphs Department only to those degree and diploma holders in commerce who entered the Department after the 19th September, 1930?

(d) Is it a fact that according to this order the pay of graduates and under-graduates in commerce recruited before that date were reduced with retrospective effect, and that the pay alleged to have been overdrawn by them is being recovered, thereby bringing them on the same level with matriculates?

(e) Is it a fact that there is a rule that the pay which is drawn by an official "under the reasonable belief that he is entitled to it" may not be recovered?

(f) Will Government please state if there is any order giving the graduates in science (B.Sc.) the same benefits of pay, etc., enjoyed by graduates in arts (B.A.)? If not, what led Government to issue special orders for graduates in commerce only?

(g) Do Government propose to waive recovery from the officials affected and restore their pay, thereby putting them on the same footing with other graduates? If not, why not?

(h) Will Government please supply the following information:

- (1) the number of graduates and under-graduates in commerce affected in each Postal Circle by this order;

- (2) the total amount ordered to be recovered from them;
- (3) the number of graduates and under-graduates in commerce recruited after 19th September, 1930?

**Sir Thomas Ryan:** The attention of the Honourable Member is invited to the reply given in this House to Mr. C. S. Ranga Iyer's almost identical unstarred question No. 121 on the 22nd March, 1933.

**GRANT OF INCREMENTS AND EXEMPTION FROM PASSING ANY EXAMINATION TO THE OFFICIALS OF THE SORTING OFFICE, MADRAS GENERAL POST OFFICE.**

**1169. \*Mr. N. M. Joshi:** (a) Will Government be pleased to state whether they are aware of the fact that some of the officials working at Madras General Post Office Sorting Office have completed their probationary period of two years and are not yet allowed to draw increments of pay? If so, why?

(b) Will Government be pleased to state whether they are aware of the fact that some officials appointed at the Madras General Post Office Sorting Office, after a departmental examination, are being asked to pass another examination before earning their increment?

(c) If the answer to part (b) be in the affirmative, are Government aware that these men were recruited after undergoing a training of four months and after passing a departmental test?

(d) Will Government be pleased to state whether they are aware of the fact that in the Telegraph side, if men in the station service after passing the efficiency bar in the first service are transferred to general service, they are not required to pass again the same bar in general service?

(e) If the answer to part (d) be in the affirmative, are Government prepared to consider the grant of increments without any stoppage and also the grant of exemption to the men referred to in part (b) from passing any examination?

**Sir Thomas Ryan:** Information has been called for and will be placed on the table in due course.

**PRECARIOUS CONDITION OF THE LOAN OFFICES OF BENGAL.**

**1170. \*Mr. K. O. Neogy:** (a) (i). Has the attention of Government been drawn to the fact that the loan offices of Bengal are leading a precarious existence and a majority of them are on the verge of wholesale collapse?

(ii) Are Government aware:

(1) that this is causing an extensive hardship to the middle class and the rural population of Bengal and that any general failure of these loan offices will seriously aggravate the present economic crisis in the mufassil, and

(2) that generally speaking the causes of this state of affairs lie beyond the control of the loan offices?

(b) If the answers to the above part be in the affirmative, what remedial measures do Government propose taking to meet the present crisis?

(c) Are Government considering the desirability of establishing a "Financing Corporation" as suggested by the Central Banking Enquiry Committee?

(d) Do Government propose undertaking banking legislation on the lines recommended by the Provincial and the Central Banking Enquiry Committee?

(e) If the answer to parts (b), (c) or (d) be in the negative, will Government please state the reasons therefor?

**The Honourable Sir George Schuster:** (a) (i) and (ii). The attention of the Government of India has not been specifically drawn to the position of the loan offices in Bengal as indicated in the question. They have no reason to doubt that their land mortgage business has been seriously affected by the fall in the price of agricultural commodities.

(b) A copy of the Honourable Member's question is being forwarded to the Government of Bengal.

(c), (d) and (e). The Honourable Member is not correct in saying that a financing corporation was specifically suggested by the Central Banking Enquiry Committee. One of the members of the Committee, Mr. N. R. Sarkar, submitted a note to the Committee proposing the creation of such a corporation, and the Committee recommended that the suggestion should be examined by the Government of Bengal and the Provincial Legislature, land mortgage banking being under the control of Provincial Governments. As regards the more general question of an Act to regulate their purely banking operations, the Central Banking Enquiry Committee recommended that they should be governed, like all joint-stock banks, by a special bank Act. This aspect of the question, which alone falls within the purview of the Central Government, will be examined when the question of the Reserve Bank again comes under consideration.

**Mr. K. C. Neogy:** Will the Honourable Member be pleased to lay on the table of the House the reply which he may receive from the Government of Bengal in this matter?

**The Honourable Sir George Schuster:** Speaking offhand, I do not see that there will be any objection to that, but I would ask the Honourable Member to put down a question on the subject at the next Session. I think that will be more satisfactory.

#### COLLECTION OF THE SUBSCRIPTION OF THE POSTAL AND RAILWAY MAIL SERVICE CO-OPERATIVE BENEFIT FUND LIMITED, MADRAS.

1171. **\*Mr. S. C. Mitra:** (a) Is it a fact that the subscriptions of the Postal and Railway Mail Service Co-operative Benefit Fund, Ltd., Madras, are deducted from the salary bill of the members and are remitted by service money orders?

(b) Is it a fact that similarly the subscriptions of the All-India Mutual Relief Fund, Punjab, are remitted by service money orders?

(c) If the reply to parts (a) and (b) be in the affirmative, will Government be pleased to state why similar concessions have been refused to other benefit funds of the postal employees at Bombay and Calcutta?

(d) Are Government prepared to issue orders that the remittance of the benefit funds may be remitted by service money orders?

(e) If not, will Government please state why a concession which has been extended to some benefit funds are being refused to others?

**Sir Thomas Ryan:** (a) Yes, as a concessional arrangement which was sanctioned in 1928.

(b) If the Honourable Member refers to the All-India Postal and Railway Mail Service Mutual Relief Fund, Punjab, which enjoyed the concession from 1928, that Fund has now been split up into two funds for which no such concession has been granted.

(c) to (e). The concession granted in the past to certain Co-operative Societies of the Posts and Telegraphs Department is not now being extended to others. Such extension would add to the already heavy work of the Department.

#### TRANSFER OF INSPECTORS OF POST OFFICES IN BENGAL.

1172. **\*Mr. S. C. Mitra:** (a) Is it a fact that the Inspectors of Post Offices are liable to transfer from one Sub-Division to another at an interval of three years?

(b) Will Government be pleased to state why the Town Inspectors of Calcutta have been allowed to work in Calcutta since their appointment as Town Inspectors?

(c) Is it a fact that many Inspectors of the mufassil expressed their willingness to come to Calcutta by forgoing their travelling allowance?

(d) Is it also a fact that there are many Sub-Divisions, viz., Alipore, Howrah, Barrackpore and Serampore, which are very near to Calcutta and where these Town Inspectors can be transferred?

(e) Are Government prepared to issue orders that the Town Inspectors of Calcutta are transferred to the mufassil Sub-Divisions also so that the Inspectors working in the mufassil can get facilities to come to Calcutta? If not, why not?

**Sir Thomas Ryan:** (a) Yes.

(b), (c) and (d). Government have no precise information. The matter is one within the competence of the Postmaster-General, Bengal and Assam, to whom a copy of this question is being sent.

(e) Government do not consider that the issue of any further orders is required.

#### APPOINTMENT OF AN INDIAN AS DIRECTOR GENERAL, INDIAN MEDICAL SERVICE, OR AS PUBLIC HEALTH COMMISSIONER IN INDIA.

1173. **\*Mr. Gaya Prasad Singh:** (a) Will Government be pleased to state if it is a fact that nearly fifteen years ago orders were passed by the Government of India that either the Director General, Indian Medical Service, or the Deputy Director General, Indian Medical Service, should in future be an Indian? If so, will Government please lay a copy of that order on the table?

(b) Is it a fact that the present Director General, Indian Medical Service, is retiring from the service during this year?

(c) Is it also a fact that the extension granted to the Public Health Commissioner, India, expires this year? If the answer to parts (a) and (b) be in the affirmative, do Government propose to appoint an Indian Indian Medical Service Officer to the post?

**Mr. G. S. Bajpai:** (a) No such orders were passed by the Government of India.

(b) Yes.

(c) The present Public Health Commissioner will have completed four years service as Major-General on the 10th December, 1933. Claims of suitable Indian officers of the Indian Medical Service will receive due consideration when the time comes.

**Mr. Gaya Prasad Singh:** With regard to the answer to part (c) of my question, I should like to know how many extensions the Public Health Commissioner has already received?

**Mr. G. S. Bajpai:** Hitherto, Sir, he has not received a single extension.

#### MILITARY PENSION CLAIMS.

1174. \***Mr. Muhammad Anwar-ul-Azim:** Will Government be pleased to place on the table replies to unstarred questions Nos. 299, 300, 302 and 303 of the 30th March, 1932, regarding military pensions claims?

**Mr. G. R. F. Tottenham:** With your permission, Sir, I will answer questions Nos. 1174 and 1175 together.

Statements containing the information promised in reply to the questions mentioned by the Honourable Member were laid on the table on the 15th September, 1932.

#### INCREASE OF PENSIONS OF RETIRED MILITARY MEN BY RE-EMPLOYMENT.

†1175. \***Mr. Muhammad Anwar-ul-Azim:** Will Government be pleased to lay on the table the reply to unstarred question No. 284 of the 29th March, 1932, regarding the increase of pensions of retired military men by re-employment as promised by them?

#### ARREARS OF PAY OF DRIVERS IN A MULE CORPS.

1176. \***Mr. Muhammad Anwar-ul-Azim:** (a) With reference to the answer given to part (g) of starred question No. 1083 of the 30th March, 1932, are Government aware of the fact that the credit balances of poorly-paid ex-sepoys of the Indian Army and drivers, etc., of the Indian Army Service Corps are not being paid by the officers concerned even on establishing their claims directly, or through their attorneys and that their applications submitted by them are not replied to?

(b) If so, will Government kindly state the reasons why this is so?

† For answer to this question, see answer to question No. 1174.

**Mr. G. R. F. Tottenham:** With your permission, Sir, I will answer questions Nos. 1176, 1177 and 1178 together.

The answer to part (a) of each question is in the negative, but if the Honourable Member will let me know of any specific cases of the kind mentioned by him, I will inquire into them.

Part (b) of the questions does not arise.

**ARREARS OF PAY, ALLOWANCES AND PENSIONS OF EX-INDIAN OFFICERS AND SOLDIERS OF THE INDIAN ARMY.**

†1177. **\*Mr. Muhammad Anwar-ul-Azim:** (a) Is it a fact that petitions of ex-Indian officers and soldiers of the Indian Army in respect of arrears of their pay, allowances and pensions are not replied to even by the highly-placed military officers?

(b) If so, will Government kindly state the reason for such procedure and their attitude towards their loyal and faithful servants?

**BELATED CLAIMS OF EX-MILITARY MEN TO PAY, PENSION, ETC.**

†1178. **\*Mr. Muhammad Anwar-ul-Azim:** (a) With reference to the answer given on the 23rd March, 1932, to part (a) of starred question No. 913, is it not a fact that the claims of ex-military men to pay, pension, etc., are not entertained by the Officers Commanding and the Controllers of Military Accounts concerned, even after furnishing cause of delay by the beneficiaries concerned in submission of their claims and that their claims are still being declared as time-barred?

(b) If so, are Government prepared to issue orders to the officers concerned for the entertainment of such claims?

**DISABILITY OR INVALID PENSIONS GIVEN IN THE INDIAN ARMY.**

1179. **\*Mr. Muhammad Anwar-ul-Azim:** Is it a fact that service, disability or invalid pensions are given to all ranks, combatants and non-combatants including religious teachers of the Indian Army?

**Mr. G. R. F. Tottenham:** The Honourable Member is referred to the reply I gave on the 25th February, 1933, to part (a) of Mr. M. Maswood Ahmad's identical unstarred question No. 48.

**PENSIONS AND GRATUITIES ADMISSIBLE TO PERSONNEL OF THE INDIAN ARMY.**

1180. **\*Mr. Muhammad Anwar-ul-Azim:** Is it a fact that mustering-out pensions and gratuities are admissible to personnel of the Indian Army, who are discharged on account of the disbandment of a unit and consequent elimination of its reserve, or on account of reduction of establishment or in any other circumstances due to no fault of their own, without any restriction to any date of their enlistment or re-enlistment in the Indian Army?

† For answer to this question, see answer to question No. 1176.

**Mr. G. B. F. Tottenham:** The Honourable Member is referred to the answer I gave on the 25th February, 1933, to part (b) of Mr. M. Maswood Ahmad's identical question No. 48.

**ADVISORY AND STANDING COMMITTEES OF THE VARIOUS DEPARTMENTS OF THE GOVERNMENT OF INDIA.**

1181. **\*Mr. S. C. Mitra:** (a) Will Government please state what are the different Advisory and Standing Committees of the various Departments of the Government of India?

(b) What is the strength of each of these Committees?

(c) How many times did each of the Committees meet during the last financial year?

**The Honourable Sir Harry Haig:** The information desired by the Honourable Member is being obtained and will be laid on the table in due course.

**DENIAL TO RAILWAY SUBORDINATES OF MORADABAD OF THE PRIVILEGE OF SEEING OFFICERS AT CALCUTTA.**

1182. **\*Mr. B. N. Misra:** (a) Is it a fact that the subordinates of Moradabad are denied the privilege of seeing officers at Calcutta?

(b) If not, under what circumstances did Mr. L. E. Vining address the following on the 9th June, 1932:

"You will not be given permission to see anyone in Calcutta. You have got to realise without further delay that my orders are to be carried out and I shall have to take serious view of your attitude which is bordering on insubordination which I am not prepared to tolerate"?

**Mr. P. R. Rau:** With your permission, Sir, I propose to reply to questions Nos. 1182, 1183 and 1184 together. I have called for certain information and will lay a reply on the table in due course.

**PUNISHMENT GIVEN TO THE SUBORDINATES OF THE MORADABAD DIVISION, EAST INDIAN RAILWAY.**

†1183. **\*Mr. B. N. Misra:** Is it a fact that the subordinates of the Moradabad Division on the East Indian Railway are punished in anticipation of their explanations? If not, will Government be pleased to lay on the table a copy of the Divisional Superintendent, Moradabad, letter No. 112/99/27-E., of the 4th July, 1932, and what action do Government propose to take to punish the officers concerned?

**SUSPENSION OF CERTAIN SUBORDINATES OF THE MORADABAD DIVISION, EAST INDIAN RAILWAY.**

†1184. **\*Mr. B. N. Misra:** (a) Is it a fact that the subordinates of the Moradabad Division were suspended by Mr. L. E. Vining and Mr. C. Pearce, and were paid during the period of suspension the subsistence allowance, but never received any punishment for the offence which could not be established? If so, why are they paid quarter pay in the absence of any punishment?

(b) Will Government be pleased to lay on the table the following letters issued by the Divisional Superintendent, Moradabad: (1) L./489 of 8rd

December, 1932; (2) 3/32-E. of 5th December, 1932; (3) E.-29/32 of 6th December, 1932; (4) E.-Control of 12th October, 1932; (5) C. C.-11/M. B.-10 of 12th October, 1932; (6) C. C.-17/M. B.-24 of 12th October, 1932; (7) C. C.-19/M. B.-32 of 17th October, 1932; (8) E. T.-3/32-R. A. S. M. of 24th October, 1932; (9) E. T.-3/32-R. A. S. M. of 1st November, 1932, and (10) E. T.-3/32-R. A. S. M. of 29th/30th November, 1932, with supporting documents?

### MUSLIM POLICE OFFICERS IN DELHI.

1185. \*Mr. B. N. Misra: (a) Is it a fact that the Deputy Superintendent of Police, Kotwali, the Deputy Superintendent, C. I. D., and the Deputy Superintendent on Special Duty at Delhi are Muhammadans?

(b) Is it also a fact that the Circle Inspector and the Sub-Inspector-in-Charge of Kotwali are also Muhammadans?

(c) Are Government aware of their general policy to avoid preponderance of one community in a department and also at a particular station?

(d) Are Government also aware that the population of Delhi and its suburbs mostly consists of Hindus, and that the Muhammadans are much less in number?

(e) Is it a fact that in spite of there being already two Muslim Deputy Superintendents of Police and many other Muslim Police officers in Delhi, another Muslim Deputy Superintendent of Police has very recently been brought in place of the only Hindu Deputy Superintendent of Police?

(f) If the reply to part (e) be in the affirmative, was a Hindu or non-Muslim particularly asked for from the Punjab Government? If not, why not?

The Honourable Sir Harry Haig: (a) and (b). The replies are in the affirmative.

(c) to (f). I would refer the Honourable Member to the reply given by me to parts (c), (d) and (e) of Sardar Sant Singh's unstarred question No. 180 on the 5th April, 1933.

### MEETINGS OF QADIANIS HELD IN THE HOUSE OF THE DEPUTY SUPERINTENDENT, CRIMINAL INVESTIGATION DEPARTMENT, DELHI.

1186. \*Mr. B. N. Misra: Are Government aware that meetings of Qadianis are held almost on every Friday and Sunday in the house of the Deputy Superintendent of Police, C. I. D., Delhi, who himself belongs to that sect and that all other religions are openly criticised in those meetings? If so, under what rule are these meetings allowed to be held in the house of a responsible police officer who is the custodian of law and order?

The Honourable Sir Harry Haig: The Deputy Superintendent of Police, C. I. D., is a member of the Anjuman-i-Ahmadiya, Lahore. No meetings of the kind described are held in his house.



**NON-POLITICAL CASES INVESTIGATED BY THE DELHI CRIMINAL  
INVESTIGATION DEPARTMENT.**

1187. **\*Mr. B. N. Misra:** (a) Will Government be pleased to state the non-political cases investigated by the Delhi C. I. D. during the last three years?

(b) If the reply be in the negative or if there was a negligible number, how do Government justify the retention of a post of Deputy Superintendent in the Delhi C. I. D.? Is it the fact that a criminal agency has recently been created exclusively to deal with the non-political cases?

**The Honourable Sir Harry Haig:** (a) The information is not easily available.

(b) Though the Delhi C. I. D. has investigated some non-political cases during the last three years, its primary function is the watching and investigation of political, communal and revolutionary movements and crime. No separate staff has been sanctioned for the investigation of non-political crime. The Central Investigating Agency referred to in the question as the "Criminal Agency", is merely a local rearrangement of Police Station investigating staff and has no connection with the Delhi C. I. D.

**DUTIES OF THE DEPUTY SUPERINTENDENT OF POLICE, CRIMINAL INVESTIGATION  
DEPARTMENT, DELHI.**

1188. **\*Mr. B. N. Misra:** (a) Is it a fact that the Deputy Superintendent of Police, C. I. D., is merely an intermediary between the Superintendent of Police, C. I. D. and the Inspectors, C. I. D.? What work does he actually do?

(b) Is it a fact that this appointment was particularly created in order to deal with criminal cases and also to relieve the Superintendent of Police of C. I. D. during his short leave, etc., when there was only one Deputy Superintendent of Police in Delhi?

(c) Is it a fact that since then a post of Deputy Superintendent of Police, Headquarters, has permanently been created and a separate C. I. Agency has been established? If so, how do Government justify the retention of this post during the present days of financial stringency?

**The Honourable Sir Harry Haig:** (a) and (c). The answer to the first part is in the negative. As regards the second part, I would refer the Honourable Member to the reply I have just given to his question No. 1187. The work done by the Deputy Superintendent is of an exacting nature requiring the whole-time attention of a Gazetted Officer.

(b) No, Sir.

**LOCAL AND CONVEYANCE ALLOWANCES GIVEN TO THE GAZETTED POLICE  
OFFICERS IN DELHI.**

1189. **\*Mr. B. N. Misra:** (a) How much local and conveyance allowances are given to the gazetted police officers in Delhi and when and why were these sanctioned?

(b) Have these allowances ever been revised and overhauled? If not, why not? If so, when and with what effect?

(c) Are Government prepared to revise the grant of conveyance allowance given to the Deputy Superintendent of Police, C. I. D., Delhi, and reduce its scale?

**The Honourable Sir Harry Haig:** (a) I lay on the table a statement showing the local and conveyance allowances at present drawn by Gazetted Police Officers in Delhi. These allowances were sanctioned when the posts were created, with the exception of the conveyance allowance of the Deputy Superintendent of Police, C. I. D. This was first sanctioned as a temporary measure for a period of six months from the 1st August, 1930, in recognition of the fact that he was expected to supervise work in a large area, in which he did not draw travelling allowance. The local and conveyance allowances drawn by other Gazetted Officers were sanctioned in view of the fact that Delhi is an expensive centre and because the duties of these officers at headquarters necessitate the keeping of a motor car.

(b) The sanctioned local and conveyance allowances except those which were in existence before the 1st January, 1919, and have not been enhanced since that date have been subjected to emergency cuts varying from 10 per cent. to 20 per cent. since March, 1931.

(c) Government do not consider that the conveyance allowance drawn by the Deputy Superintendent, C. I. D., is excessive, and are not, therefore, prepared to take the action suggested.

*Statement.*

<i>Designation of Gazette'd Officers.</i>	<i>Local Allowance.</i>	<i>Conveyance Allowance.</i>
	<b>Rs.</b>	<b>Rs.</b>
1. Senior Superintendent of Police . . . .	..	150
2. Superintendent of Police, C. I. D. . . .	..	129
3. Assistant Superintendent of Police . . .	90	109
4. Deputy Superintendent of Police City . .	75	87/8
5. Deputy Superintendent of Police Headquarters .	75	87/8
6. Deputy Superintendent of Police, C. I. D. . .	75	87/8

**MOTOR DRIVERS OF POLICE OFFICERS IN DELHI.**

1190. **\*Mr. B. N. Misra:** Are Government aware that none of the police officers in Delhi has got his private motor driver, but, that the police constables detailed as their orderlies or gunmen are being utilised as motor drivers? If so, why and under what orders?

**The Honourable Sir Harry Haig:** I am making enquiries from the Chief Commissioner, Delhi, and will lay a reply on the table in due course.

**SUPPLY OF ADVANCE COPIES OF REPLIES TO STARRED QUESTIONS TO THE MEMBERS OF THE LEGISLATURES.**

1191. **\*Rai Bahadur Sukhraj Roy:** (a) What objection have Government to supply advance copy of replies to starred questions to the Legislatures concerned at least 24 hours before the date on which the reply has to be given?

(b) Have Government considered whether the Legislatures should not be given at least 24 hours' opportunity, if not more, to go through the replies to their starred questions and to prepare themselves to put suitable supplementary questions where necessary? If so, with what result?

**The Honourable Sir Brojendra Mitter:** (a) and (b). The procedure contemplated by the Honourable Member is not authorized by the Standing Orders and in the opinion of Government would be wholly at variance with the elementary implications of the system of oral interpellation.

#### CLERKS' QUARTERS IN NEW DELHI.

1192. **\*Rai Bahadur Sukhraj Roy:** (a) What objection have Government to furnish the statements and information called for in unstarred question Nos. 54 and 57, dated the 13th February, 1932, and starred question No. 879, dated the 23rd September, 1931?

(b) What are the reasons for treating the information of less or no benefit to public or employees?

**The Honourable Sir Frank Noyce:** (a) and (b). The objection to furnish the statements and information called for in the questions referred to was mentioned in the replies to those questions, *viz.*, the labour involved in compiling the information required would be incommensurate with the benefit obtained.

#### EXEMPTION OF A CERTAIN CLASS OF EMPLOYEES FROM THE TEN PER CENT. CUT IN PAY.

1193. **\*Rai Bahadur Sukhraj Roy:** (a) Will Government be pleased to refer to starred question No. 617, dated the 4th March, 1932, regarding the exemption of a certain class of employees from the 10 per cent. cut in pay and state if the offices subordinate to the Imperial Secretariat and its Attached offices (except Railways and Posts and Telegraphs) have since been treated in the same manner? If not, why not?

(b) Will Government please state whether the employees of the Railway Board and the Director General's office were not treated differentially in this matter only or are not treated differentially in all other matters also? If differential treatment has been made applicable in the case mentioned in part (a) only, have Government considered whether it should be made applicable in all other matters also?

**The Honourable Sir Frank Noyce:** (a) The Honourable Member apparently refers to the fact that officials drawing a pay of Rs. 40 per mensem and below, employed in the Railway Department (Railway Board) and in the Posts and Telegraphs Directorate, were not exempted from the emergency cut while officials drawing similar rates of pay employed in other Departments of the Government of India Secretariat and other attached offices were exempted. The position as regards exemption from the cut remains unchanged and the question of fresh consideration has not therefore arisen.

(b) Exemption from the cut is the only matter related to the application of the Civil Services (Emergency Deduction) Rules which the Honourable Member has presumably in mind in which the employees of

the Railway Board and the Director General's office were treated differently from the employees in other Departments of the Government of India Secretariat and other attached offices. Government are not aware of the 'other matters' in respect of which the Honourable Member desires differential treatment to be meted out.

**ABSENCE OF THE SUPERINTENDENT OF THE WIRELESS BRANCH OF THE OFFICE OF THE DIRECTOR GENERAL, POSTS AND TELEGRAPHS.**

1194. **\*Rai Bahadur Sukhraj Roy:** Will Government be pleased to refer to starred question No. 816 answered on the 15th March, 1932, regarding the absence of the Superintendent of the Wireless Branch, Director General, Posts and Telegraphs, and state if during the period from 18th July to 23rd December, 1931, the work of the Branch suffered much for want of a Superintendent only and if the work could not have been managed by posting one or two more Assistants there? Is the work of the Branch up to the mark now? If not, where is the necessity for posting a highly paid official?

**Sir Thomas Ryan:** (a) Yes, the work of the branch did suffer for want of a Superintendent during the period in question. It could not have been managed efficiently by posting additional assistants. The work is up to the mark now. The last part does not arise.

**RETENTION OF THE APPOINTMENT OF OVERSEER OF PEONS IN THE OFFICE OF THE DIRECTOR GENERAL, POSTS AND TELEGRAPHS.**

1195. **\*Rai Bahadur Sukhraj Roy:** Will Government be pleased to state :

- (a) if the overseer of peons in the Director General, Posts and Telegraph's office was granted leave during the summer months, 1932, and, if so, for what period and who was appointed to act in his place; if none, why and how the work was managed;
- (b) the name of the departments in which such appointments exist; if none, state necessity justifying this appointment in the Director General's office only;
- (c) when and by whom this appointment was sanctioned;
- (d) what are the justifications for retaining this appointment any longer especially during these hard days of financial stringency;
- (e) what would be the annual saving if this appointment is abolished?

**Sir Thomas Ryan:** (a) Yes, for one month, subsequently extended by two weeks. No one was appointed to act in his place as the time was short and in order to avoid extra expenditure. As it was the slack season, his work was managed by a clerk in the Cash Branch with the help of peons.

(b) and (d). This is a special post which exists only in my office. The overseer maintains discipline among a large inferior staff and sees that unauthorised persons do not obtain access to the office; he is also employed in the conveyance of cash and in supervision of the peons quarters.

(c) The post was first sanctioned by the Director General, as a temporary measure from the 16th August, 1920, and was subsequently made permanent. Its retention was agreed to by the Standing Finance Committee in 1930.

(e) Rs. 504 would be saved in pay but a great deal of inconvenience would be entailed.

### INADEQUATE REPRESENTATION OF MUSLIMS IN THE BENARES CITY POST OFFICE.

1196. \*Maulvi Sayyid Murtuza Saheb Bahadur: (a) With reference to the statement furnished by Government in reply to starred question No. 363, dated the 20th February, 1933, are Government aware that the total number of permanent Muslim employees at the Benares City Post Office has further been reduced from 59 to 56 by (i) the retirement of one Muslim selection grade Sub-Postmaster, (ii) the death of one Upper Division Muslim clerk, and (iii) the transfer of a Muslim selection grade Town Inspector to the Benares Division, out of the total strength of 316 officials, leaving a percentage of only about 18 per cent. for the Muslims?

(b) Are Government aware that the Muslim population in the jurisdiction of the Postmaster, Benares City Post Office (*vis.*, in Benares town and cantonment), is about 34 per cent. according to the latest Census Report?

(c) If the replies to parts (a) and (b) above be in the affirmative, will Government be pleased to account for this shortage of more than 15 per cent. in the Muslim representation at Benares City? Do they propose to adjust this communal inequality of Muslims?

The Honourable Sir Frank Noyce: (a) Government regret that they have no precise information subsequent to that supplied in the statement to which the Honourable Member refers.

(b) and (c). Apparently the Honourable Member's contention is that the representation of Muslims in the staff of each post office should correspond with the percentage of Muslims in the population served by that office. Government regret that they are quite unable to accept such a claim nor are they prepared to take any steps to increase the representation of Muslims in the Benares City Post Office other than to insist on the strict observance of the third vacancy rule in making direct recruitment.

### INADEQUATE REPRESENTATION OF MUSLIMS IN THE BENARES CITY POST OFFICE.

1197. \*Maulvi Sayyid Murtuza Saheb Bahadur: (a) With reference to the pledge given in their reply to starred question No. 364, dated the 20th February, 1933, will Government please state if the required information has since been collected and whether the rigid ratio of 11 per cent. fixed for the recruitment of Muslims at the Benares City Post Office is not established by the Postmaster-General, United Provinces, letter No. A.X.-1272-A., dated the 3rd April, 1928?

(b) If the reply to part (a) be in the affirmative, are Government prepared to stand by their promise and take necessary action for the modification of the Postmaster-General's order referred to in part (a) above?

The Honourable Sir Frank Noyce: (a) and (b). Government have found from enquiry that several years ago, through a misunderstanding of their orders for the redress of communal inequalities, the Postmaster-General, United Provinces Circle, fixed a ratio on a population basis for the representation of each community in the clerical cadre, which was 11 per cent. for Muslims in Benares City. These orders were issued as long ago as 1928 and were cancelled by the Postmaster-General in 1930.

**Maulvi Sayyid Murtuza Saheb Bahadur:** Was this done in consultation with the Director General of Posts and Telegraphs or by the Postmaster General himself?

**The Honourable Sir Frank Noyce:** Is the Honourable Member referring to the issue of the orders or to the cancellation?

**Maulvi Sayyid Murtuza Saheb Bahadur:** The cancellation.

**The Honourable Sir Frank Noyce:** I have no precise information on the point, but I think the Postmaster General himself discovered the error and cancelled the orders. In any case this is past history now.

**Maulvi Sayyid Murtuza Saheb Bahadur:** Is it not necessary that when the cancellation of a particular order is effected, it should be done in consultation with the superior officers?

**The Honourable Sir Frank Noyce:** No, Sir.

#### INADEQUATE REPRESENTATION OF MUSLIMS IN THE BENARES CITY POST OFFICE.

1198. **\*Maulvi Sayyid Murtuza Saheb Bahadur:** (a) Will Government kindly state if they have seen the article "Muslim demand in Services—Government of India considering representation" published in the *Pioneer*, dated the 22nd January, 1933, and whether they have since arrived at a definite conclusion regarding the question of sparing Muslim employees from retrenchment so that the policy of giving the Muslims a proper representation may not be defeated?

(b) If the reply to part (a) be in the affirmative, are Government prepared to stand by their own orders issued in the Department of Industries and Labour, Memo. No. G.-63, dated the 24th September, 1931, which clearly lay down that the Department should refrain from taking action which affects adversely the position of minority communities in the process of retrenchment?

(c) Are Government prepared to issue definite instructions to all the appointing authorities, including the Postmaster, Benares City, not to retrench any Muslim employee under them?

(d) How do Government reconcile the reply given by them to part (b) of starred question No. 365, dated the 20th February, 1933, and their orders referred to in the Department of Industries and Labour, Memo. No. G.-23, dated the 24th September, 1931?

**The Honourable Sir Frank Noyce:** (a) The reply to the first part is in the affirmative and as regards the second part, I may mention that Government issued orders in August, 1931, making it clear that as far as practicable in selecting persons for retrenchment, the existing ratio between the communities in each category of service should be maintained. The object of those orders was to provide a reasonable principle in accordance with which all communities would receive fair treatment in the process of retrenchment. There is no proposal to revise these orders.

(b) Yes.

(c) No. This is obviously not the intention of the orders referred to in part (b) of the question.

(d) The Honourable Member presumably refers to the Department of Industries and Labour Memorandum No. G-68 (not G-28), dated the 24th September, 1931, if so, Government do not admit that the reply to which the Honourable Member refers is in any way inconsistent with this order.

#### INADEQUATE REPRESENTATION OF MUSLIMS IN THE BENARES CITY POST OFFICE.

1199. \*Maulvi Sayyid Murtuza Saheb Bahadur: (a) With reference to the promise made in reply to starred question No. 366, dated the 20th February, 1933, have Government collected the required information and is it a fact that there are only two Muslim Town Sub-Postmasters out of a total number of 15?

(b) What course do Government propose to take for safeguarding against this prejudicial treatment meted out to the minority community?

The Honourable Sir Frank Noyce: (a) Information was laid on the table on the 20th March, 1933, and a reference to it will show that the reply to the latter part of the question is in the affirmative.

(b) As already explained in this House such posts are not filled on communal considerations and Government see no reason to depart from the existing practice.

#### ABOLITION OF THE LOWER SELECTION GRADE EXAMINATION OF POST OFFICES.

1200. \*Maulvi Sayyid Murtuza Saheb Bahadur: (a) With reference to the reply given to starred question No. 368, dated the 20th February, 1933, will Government please state why the lower selection grade examination was entirely abolished?

(b) Will Government be pleased to state whether they have since arrived at a definite conclusion about the question of dispensing with the examination in the case of reliable senior postmen and whether they have also issued instructions in the matter to all the Postmasters-General, including the Postmaster-General, United Provinces?

(c) Are Government aware that the words "reliable men" used by Government can be construed in many ways, and are Government prepared to make the expression more definite and clear, and state whether it means the postmen of all round past good records or anything else?

Sir Thomas Ryan: (a) The Honourable Member is referred to the replies given in this House to supplementary questions by Dr. Ziauddin Ahmad in connection with Mr. S. C. Mitra's starred question No. 792 on the 14th March, 1932.

(b) The reply to both the parts is in the affirmative.

(c) Clear instructions have been issued vesting Heads of Circles with discretionary powers to exempt from the examination such of the existing senior members of the postmen class who, they consider, are really fit for promotion.

**EXAMINATION FOR THE RECRUITMENT OF LOWER DIVISION CLERKS HELD AT THE BENARES CITY POST OFFICE.**

1201. \*Maulvi Sayyid Murtuza Saheb Bahadur: (a) With reference to the reply given to starred question No. 369, on the 20th February, 1933, will Government be pleased to state whether, in view of the fact that the lower division clerk's examination held at Benares City on 6th October, 1932, both for outside and departmental candidates, was not cancelled, they are prepared to treat the four Muslim outside candidates as passed approved candidates, and do Government propose to order that all such other candidates, both outside and departmental, passing in similar future examinations would be considered junior to all these four men?

(b) Is it a fact that the Postmaster-General, United Provinces, in his letter No. Staff. A./A.-X.-1309/V, dated the 15th December, 1932, addressed to all Superintendents of Post Offices and first class Postmasters of his Circle, had actually called for the names and particulars of all successful candidates examined before 14th November, 1932, for his approval and did the Postmaster, Benares City, actually furnish the required information in respect of these four successful Muslim candidates examined on 6th October, 1932, to the said Postmaster-General, for approval, in compliance with the above orders? If not, why not?

(c) Are Government aware that out of the total number of 114 upper division time scale clerks at Benares City, there are already 95 non-Muslims against 19 Muslims and are Government aware that there are at present five clear vacancies of lower division clerks at Benares City (*viz.*, three shown in the statement furnished by them in reply to starred question No. 363, dated the 20th February, 1933; one created on the retrenchment of B. Mathura Prasad Roy, late clerk, Benares City, while the other one was created on the death of one Muslim clerk, Mohd. Ismail)?

(d) Are Government also aware that out of these five vacancies at Benares City, one has been reserved for a non-Muslim clerk, Cawnpore Post Office? If so, why?

(e) Are Government prepared to issue immediate orders cancelling the transfer and provision for the said Bengali clerk, Cawnpore, to Benares City Post Office?

**The Honourable Sir Frank Noyce:** The case is being investigated and a reply will be placed on the table in due course.

**PAUCITY OF MUSLIM OFFICIALS SENT TO THE TELEGRAPH TRAINING CLASS.**

1202. \*Maulvi Sayyid Murtuza Saheb Bahadur: (a) With reference to the reply given to starred question No. 370, dated the 20th February, 1933, will Government kindly state if it is a fact that acquittance rolls in Post Offices are preserved for 35 years and whether remarks regarding deputations of officials to Telegraph Training Class are also noted in them?

(b) Will Government also please state how long the records relating to officials deputed to Telegraph Training Class are required to be preserved both in Post Offices as well as in the office of the Officer-in-charge of Telegraph Training Class and whether efforts were made to collect the full information asked for in starred question No. 370, dated 20th February, 1933, in consultation with the acquittance rolls of the corresponding



periods as also from the records preserved in the office of the officer, or officers-in-charge of the concerning Telegraph Training classes?

(c) If the reply to part (a) be in the affirmative, will Government now furnish the full information regarding all communities separately year by year and are they prepared to issue distinct orders to all the authorities concerned including Postmaster, Benares City, to guard against such prejudicial treatment in future?

(d) Are Government aware that by depriving Muslim candidates of deputation to Telegraph Training Class, they close the doors of holding charge of combined offices (thereby earning a large sum of late fees) for a particular community, viz., Muslims, and if so, are they prepared to take remedial measures in the matter against the monopoly of a particular community?

**The Honourable Sir Frank Noyce:** (a) to (c). In the question to which the Honourable Member refers, Government were asked how many members of a certain community were sent to the Telegraph training class since 1920. Government gave the required information from the year 1926 as exact information prior to that year was not available nor in view of the time that has elapsed and of the number of offices the records of which would have to be consulted is it likely that any enquiries now undertaken would yield accurate results. As already explained the Posts and Telegraphs Department is working with a reduced staff and such minute historical investigations as that suggested by the Honourable Member are not practicable, more particularly when, as in this case, the results would be of academic interest only. Government, therefore, regret that they are unable to furnish the information asked for in part (c) of the Honourable Member's question, nor, since the selection of candidates for the Telegraph training classes is not made on a communal basis, are they prepared to issue the orders which he suggests.

(d) Government do not admit that suitable Muslim candidates are not accepted for the Telegraph training classes and do not therefore consider that any special measures are necessary.

**TIME-LIMIT FOR THE RETENTION OF HEAD CLERK, CORRESPONDENCE BRANCH,  
OF A FIRST CLASS HEAD POST OFFICE.**

**1203. \*Maulvi Sayyid Murtuza Saheb Bahadur:** (a) With reference to the reply given to starred question No. 371, dated the 20th February, 1933, stating that there is no fixed limit of time upto which the Head Clerk, Correspondence Branch, of a first class Head Office can be allowed to continue on his post, will Government kindly state if such posts are meant to be held by a particular official belonging to only one community always without any change of such incumbents?

(b) If the reply be in affirmative, are Government prepared to change their policy?

**Sir Thomas Ryan:** (a) The reply is in the negative.

(b) Does not arise.

**POST OF THE PERSONAL ASSISTANT TO THE ACCOUNTANT GENERAL, POSTS AND TELEGRAPHS.**

**1204. \*Maulvi Sayyid Murtuza Saheb Bahadur:** (a) Will Government kindly state whether they consider the post of the Personal Assistant to the Accountant General, Posts and Telegraphs, to be the most important of all the posts of Assistant Accounts Officers of the Indian Posts and Telegraphs Department?

(b) If so, why has an officiating man been allowed to hold that post for so long a period?

**The Honourable Sir George Schuster:** Enquiry is being made and a complete reply will be laid on the table in due course.

**RENT OF GOVERNMENT QUARTERS PAID BY THE STAFF OF THE OFFICE OF THE DEPUTY ACCOUNTANT GENERAL, POSTS AND TELEGRAPHS, DELHI.**

**1205. \*Maulvi Sayyid Murtuza Saheb Bahadur:** (a) Will Government kindly state whether the members of the staff of the office of the Deputy Accountant General, Posts and Telegraphs, Delhi, who are occupying the residential buildings of the Central Government are liable to pay rent thereof under the provisions of Fundamental Rule 45A?

(b) Will Government kindly state under what conditions a Government servant who has acquired a lien on a residence can be asked to vacate it?

(c) Will Government kindly state why the members of the staff of the Office of the Deputy Accountant General, Posts and Telegraphs, Delhi, are treated as 'non-entitled' for the purposes of allotment of the residential buildings of the Central Government in New and Old Delhi? Is it a fact that the staff of other local offices are not so treated?

(d) Have Government decided that in respect of the residential buildings of the Central Government occupied by the officers of a commercial department, the difference between the standard rent of the buildings calculated under Fundamental Rule 45B and the rent actually recovered from the tenants should be paid by the commercial department to the Central Public Works Department? If so, does it mean that the commercial department will, in its turn, realise this difference from the tenants?

(e) When a Central Government servant whether ordinarily entitled or not is allowed to occupy a Central Government residential building, can he, under any rule or order be asked to pay that difference, i.e., to pay the full standard rent of the building calculated under Fundamental Rule 45B merely because he is serving in a commercial department?

(f) Will Government kindly state under what rules or orders the Deputy Accountant General, Posts and Telegraphs, Delhi, is obtaining declarations from the members occupying Government quarters that they will have to pay standard rent of the buildings calculated under Fundamental Rule 45B with retrospective effect from the 1st April, 1932?

(g) Is it a fact that the Personal Assistant to the Accountant General, Posts and Telegraphs, drawing more than Rs. 600 per month is being allowed to occupy a "B" type quarter? Is it a fact that it is not meant for those drawing more than Rs. 600 per month? If so, do Government propose to take steps to get the quarter vacated by him?

**The Honourable Sir Frank Noyce:** The information asked for by the Honourable Member is being collected and will be laid on the table of the House in due course.

#### PROTECTOR OF HAJ PILGRIMS AT KARACHI.

1206. **\*Mr. Uppi Saheb Bahadur:** Will Government be pleased to state:

- (a) who is the present Protector of Haj Pilgrims at Karachi;
- (b) what was he before he was appointed to this post; and
- (c) what is his present age?

**Mr. G. S. Bajpai:** With your permission, Sir, I propose to reply to questions Nos. 1206 and 1207 together. The information is being obtained and will be laid on the table in due course.

#### PROTECTOR OF HAJ PILGRIMS AT KARACHI.

†1207. **\*Mr. Uppi Saheb Bahadur:** (a) Will Government be pleased to state whether they are aware that the present Protector of Haj Pilgrims at Karachi is not able to help the pilgrims owing to his old age and that the pilgrims suffer on account of his short temper?

(b) If the reply to part (a) be in the negative, do Government propose to enquire into the matter and lay the information on the table of the House?

#### LAVATORY ARRANGEMENT AT THE KARACHI HAJ CAMP.

1208. **\*Mr. Uppi Saheb Bahadur:** Will Government be pleased to state:

- (a) whether they or the Haj Committee received any complaint regarding the situation of lavatory at the Karachi Haj Camp that it is facing towards Kibla and that it is against the religious sentiments of Mussalmans;
- (b) if not, are Government prepared to enquire and find out whether the lavatories are situated as mentioned in part (a);
- (c) if the answer to part (b) be in the affirmative do Government propose to take steps to remedy this serious grievance of the Mussalmans; if not, why not?

**Mr. G. S. Bajpai:** (a), (b) and (c). The Government of India are aware of the complaints on the subject referred to by the Honourable Member. The question of reconstructing the latrines was considered in connection with the report of the Haj Inquiry Committee but it was decided that the work, which was estimated to cost Rs. 8,000, should be held in abeyance until the financial situation improved, unless the Karachi Haj Committee were able themselves in the meantime to raise funds to meet the entire expenditure.

#### REFUSAL BY THE CEYLON GOVERNMENT TO GIVE PREFERENCE TO CERTAIN GOODS.

1209. **\*Mr. S. G. Jog:** (a) Is it a fact that the Ceylon Government have refused to give preference on goods such as cement, iron and steel and textiles?

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†For answer to this question, see answer to question No. 1206.

(b) Are Government aware that Ceylon has got to import all this from abroad?

(c) Are the Government of India prepared to take steps to negotiate a trade agreement with Ceylon with a view to get preference on cement, etc.?

(d) Will Government please state whether any correspondence is going on either directly or through the Colonial Office with the Ceylon Government?

(e) Is it a fact that a deputation is expected to wait upon the Government of India as a result of recommendations from the Board of Ministers in Ceylon?

**The Honourable Sir Joseph Bhoré:** (a), (d) and (e). Yes.

(b) So far as Government are aware textile goods are to some extent produced in Ceylon. The other articles mentioned in part (a) of the question are not produced in Ceylon.

(c) The matter is still under the consideration of the Government of India.

**WITHDRAWAL OF THE SIXTH SET OF OFFICIALS OF THE RAILWAY MAIL SERVICE (DELHI-LAHORE).**

1210. **\*Pandit Satyendra Nath Sen:** (a) Is it a fact that D-3, D-31 and D-27 Sections of the Railway Mail Service (Delhi-Lahore) have a run of more than ten hours of which about eight hours are in the night?

(b) Is it a fact that owing to the classification of these sections as working partly by day and partly by night only five sets are justified, whereas if they are classed as purely night sections, six sets are justified?

(c) Is it also a fact that formerly six sets were allowed to D-3 and D-31 sections, but as a retrenchment measure, the Postmaster-General, Punjab and N.-W. F. Circle, has withdrawn the sixth set of these sections recently?

(d) Is it also a fact that the All-India (including Burma) Postal and Railway Mail Service Union had protested to the Postmaster General, Punjab and N.-W. F. Circle, against the withdrawal and urged to allow the staff the benefit of night?

(e) Is it also a fact that the staff of the Railway Mail Service, 'D' Division, had wired to the Postmaster-General, Punjab and N.-W. F. Circle, Lahore, explaining the hardship that the withdrawal of the sixth set would cause to them and requested for the retention of the sixth set for these sections, on which the Postmaster-General, Punjab and N.-W. F. Circle, Lahore, is reported to have issued orders for the restoration of the sixth set, but later on cancelled them?

(f) If the replies to the above parts be in the affirmative, will Government please state the precise reasons why the sixth set for D-3 and D-31 sections was not restored?

**Mr. Thomas Ryan:** (a)—(f). Government have no precise information as to the facts stated in parts (a), (b) and (c) of the question. As regards the rest of the question Government understand from a communication which has been received from the All-India (including Burma) Postal and Railway Mail Service Union that the question is being represented by

that body to the Postmaster-General, Punjab, who is fully competent to deal with the matter, and with whose discretion Government do not propose to interfere.

#### STANDARDS FOR DETERMINING THE SETS OF A RAILWAY MAIL SERVICE DIVISION.

1211. **\*Pandit Satyendra Nath Sen:** (a) Is it a fact that Government have recently laid down certain standards for determining the sets of a Railway Mail Service section, *e.g.*, work by day, by night and partly by night and partly by day?

(b) Is it also a fact that no standard was laid down before for sections working partly by night and partly by day and it is only at the instance of the All-India (including Burma) Postal and Railway Mail Service Union that such a standard was laid down?

(c) If so, will Government please state the various standards laid down and the way in which they differ from what the All-India (including Burma) Postal and Railway Mail Service Union had suggested?

(d) Is it a fact that for the purpose of sections working partly by day and partly by night, 'Night' has been taken to commence from 21 hours and day from 5 hours and that Mr. G. V. Bewoor has stated, in the time-test formulated by him and since accepted by the Government that 'Night' should mean the timings between 20 hours and 6 hours?

(e) If so, will Government please state the precise reasons why the definition of 'Night' given by Mr. G. V. Bewoor and accepted by the Government was not adopted in the case of sections working partly by night and partly by day?

(f) Will Government please state why the suggestion made by the All-India (including Burma) Postal and Railway Mail Service Union to the effect that the running time of such sections should be converted either in terms 'Night Section' or 'Day Section' was not accepted?

(g) Will Government please also state whether they are aware that the revised standard laid down by them is apprehended to cause great hardship to the Railway Mail Service staff and that the discretionary power vested in the Heads of Circles in determining the number of sets for sections working partly by day and partly by night is not being justly exercised?

(h) If so, will Government please state what action they propose to take in the matter, so as to remove the apprehension of hardship felt by the staff?

**Sir Thomas Ryan:** (a) Yes, in 1930 and 1932.

(b) The reply to the first part of the question is in the affirmative and to the second part in the negative.

(c) The standards for running sections of the Railway Mail Service are as follows:

Day sections . . . . .	Weekly working hours 36 with a minimum of 30 hours.
Night sections . . . . .	Weekly working hours 30 with a minimum of 24 hours.
Sections working partly by day and partly by night .	Weekly working hours 33 with a minimum of 27 hours.

Government are unable to trace any suggestions from the All-India (including Burma) Postal and Railway Mail Service Union as to standards for running sections.

(d) The reply to the first part is in the affirmative. As regards the second part, the night and day timings as specified in Mr. Bewoor's Report related to attendance in stationary mail offices. No similar definitions were suggested for running sections.

(e) As explained in reply to (d) above, the definition referred to related to stationary mail offices. The work of running sections is governed by an entirely different set of rules as regards hours of duty, etc., and there was no reason therefore to follow exactly the definition of night and day duty as laid down for the staff of stationary offices.

(f) Government are not aware of the suggestions referred to.

(g) Government have no reason to believe that the position is as stated by the Honourable Member.

(h) Does not arise

#### UNSTARRED QUESTIONS AND ANSWERS.

##### PAY OF THE COMMERCIAL STAFF AND ASSISTANT STATION MASTERS ON THE NORTH WESTERN RAILWAY.

**189. Mr. Goswami M. R. Puri:** (a) Is it a fact that the commercial staff on the North Western Railway get from Rs. 60 to Rs. 68 per mensem and Rs. 4 per year promotion, while assistant station masters, whose responsibilities are comparatively serious, get only Rs. 63 per mensem and Rs. 3 annual promotion? Will Government be pleased to state the reasons for this difference?

(b) Is it a fact that in several stations on the North Western Railway the commercial and other staff who are supposed to be subordinate to assistant station masters are getting far higher pay than they? If so, are Government prepared to adjust this?

**Mr. P. R. Rau:** These questions are within the competence of the Agent to decide and Government have no information. I have sent the Honourable Member's question to the Agent, North Western Railway, for information and any action that he may consider necessary.

##### ALLEGED FAVOURITISM IN THE READING BRANCH OF THE GOVERNMENT OF INDIA PRESS, NEW DELHI.

**190. Mr. M. Maswood Ahmad:** (a) Are Government aware that great favouritism is going on in the Reading Branch of the Government of India Press, New Delhi, in the distribution of work to the readers?

(b) Is it a fact that the Bengali readers are given typed and printed matter for proof reading, whereas all manuscript and difficult copy is given to Messrs. Farmer and Francis?

**The Honourable Sir Frank Noyce:** (a) No.

(b) Government have no information. It is open to any one who has a grievance to represent to proper authorities in the usual way.

## GRIEVANCES OF TELEPHONE OPERATORS.

191. **Khan Bahadur Haji Wajihuddin:** (a) Has the attention of Government been drawn to an article on page 2 of the *Daily Hamdani*, of Lucknow, dated the 18th March, 1933, about the grievances of telephone operators?

(b) Has the Director General, Posts and Telegraphs, issued any instructions for the employment of women only in the cadre of telephone operators?

(c) Is it a fact that similar instructions were issued about a couple of years ago but were stayed on the protest of Indian employees?

(d) Considering the increasing unemployment and distressing economic situation, are Government prepared to cancel these orders and give equal chances to men and women in the employment of telephone operators?

(e) Is it a fact that the female telephone operators entail larger expenses on the Department, since they are entitled to maternity leave on full pay?

**The Honourable Sir Frank Noyce:** (a) Government have seen the article.

(b) No. The Director General's orders only lay down that preference is to be given to women in appointments to the cadre of Telephone Operators.

(c) The reply to the first part is in the negative. The second part does not arise.

(d) The economic situation presumably affects both sexes. I may say however that the question raised by the Honourable Member will receive further consideration.

(e) Not necessarily.

## ORDERS PROHIBITING MAULANA ISMAIL GHUZNAVI FROM LEAVING INDIA.

192. **Khan Bahadur Haji Wajihuddin:** (a) Has the attention of Government been drawn to the Press message published in the *Hindustan Times* of the 24th March, 1933, on page 12, to the effect that Maulana Ismail Ghuznavi, who was to have gone for Haj pilgrimage has been informed by the Pilgrims Protector that the Government of India have issued orders prohibiting him from leaving India?

(b) Will Government be pleased to inform the Assembly the reasons which led Government to adopt this procedure?

**Mr. H. A. F. Metcalfe:** (a) Yes.

(b) The Honourable Member is referred to the reply which I have today given to Maulvi Sayyid Murtuza Saheb Bahadur's starred question No. 1166.

## UNCLAIMED MONEY OF THE HAJ PILGRIMS.

193. **Khan Bahadur Haji Wajihuddin:** (a) To what extent is it true that a sum of Rs. 4½ lakhs being the unclaimed amount of Indian Hedjaz pilgrims is in the hands of the Government of India?

(b) Is it true or not that the said sum has lately been sanctioned to be utilised for construction of military barracks at Kamaran?

**Mr. G. S. Bajpai:** The Honourable Member is referred to the reply given to parts (a) and (b) of starred question No. 956 asked by Mr. M. Maswood Ahmad on the 27th March, 1933.

#### CONTEMPLATED LAYING OUT OF A NEW ROAD IN SECUNDERABAD.

**194. Khan Bahadur Haji Wajihuddin:** (a) Is it a fact that the Secunderabad authorities contemplate laying out a new road 84 feet wide in the heart of the city?

(b) Is it a fact that besides opening the area for this road it is also intended to have an area 93 feet wide clear on either side of the road for building houses on a new design?

(c) Are Government aware that this scheme will involve the demolition of 680 houses, the dishousing of about over 2,000 families and more than 10,000 people?

(d) What is the object of this town planning scheme?

(e) Are Government aware that this object is stated to be the prevention of the frequent outbreak of plague in the city?

(f) If so, have Government tried other methods of stamping out plague?

(g) What arrangements have been made for rat-catching on a large scale, for disinfecting houses and for popularising plague inoculation?

(h) Have the local authorities of Secunderabad made any serious effort to direct house-owners to make the houses more sanitary? If so, what specific steps have been taken in this direction?

(i) If all these means have not been taken in an organised form, do Government propose to try these before launching on such a drastic scheme?

(j) Have Government consulted any sanitary or town-planning expert in this matter?

(k) What is the object of building houses of the same design on either side of the proposed road?

(l) Is it a fact that Government expect to get about 14 lakhs of rupees by the sale of these sites?

(m) Are Government aware that the people consider this whole scheme to be a business proposition rather than a health proposition?

(n) Do Government realise the depth and the intensity of suffering that will be caused by dishousing 10,000 people?

(o) Do Government propose to re-consider the scheme in consultation with some town planning expert with a view to securing public health with the minimum of trouble to the people?

**Mr. G. R. F. Tottenham:** I am making enquiries and will lay a reply on the table in due course.



**MONTHLY HOUSE RENTS OF CERTAIN QUARTERS FOR MEMBERS OF THE  
LEGISLATIVE ASSEMBLY.**

**195. Mr. S. C. Mitra:** (a) Will Government please state what are the consolidated monthly house rents of the Assembly Members' quarters No. 4, Windsor Place and No. 4 Ferozeshah Road?

(b) What are the different factors that constitute the consolidated rent?

(c) Why does the rate of rent differ slightly from year to year?

(d) Is it a fact that charges for electricity and water rates are fixed at Rs. 20 per month?

(e) Why are not the charges for electricity and water consumption made according to the actual consumption, when there are meters for them?

(f) When the charges for actual consumption of electricity and water are more or less than the fixed amount, what is done for the balance? Is it returned to the Members if there is left any balance or is it kept in a reserve fund?

**The Honourable Sir Frank Noyce:** (a) No. 4—Windsor Place, Rs. 132-12-0 per mensem.

No. 4—Ferozeshah Road, Rs. 123-12-0 per mensem.

(b) The consolidated rents cover the following items:

(1) Rent of buildings,

(2) Rent of furniture,

(3) Charges for water, electric current, chowkidars and sweepers.

(c) Because item (3) in the reply to part (b) is not a constant factor.

(d) No.

(e) Water is metered by groups of residences. There are separate meters for electricity but as some Members may elect to occupy their quarters for short discontinuous periods on a daily rental basis it would be inconvenient for charges for electricity to be made on the basis of actual consumption.

(f) The charges made are based on estimates of the actual quantity likely to be consumed. If a small surplus remains after paying the cost incurred by Government, such surplus accrues to Government and not to any reserve fund. If there is a deficit, Government meet such deficit.

**RECRUITMENT OF GRADUATES AS ASSISTANTS IN THE GOVERNMENT OF INDIA  
PRESS, NEW DELHI.**

**196. Mr. M. Maswood Ahmad:** Will Government please state if it is a fact that for the post of assistants in the grade of Rs. 80—4—140 in the Government of India Press, New Delhi, graduates were recruited as from among the clerical staff of the Press?

**The Honourable Sir Frank Noyce:** The three posts of Assistants created in 1927 were filled by recruitment of graduates from outside.

**SCALES OF PAY OF LOWER GRADE CLERKS IN THE GOVERNMENT OF INDIA PRESS, NEW DELHI.**

**197. Mr. M. Maswood Ahmad:** Will Government please state if it is a fact that the lower clerical scale of Rs. 85—2½—80 of the Government of India Press, New Delhi, is far inferior to that of any other Government office? Is it a fact that the Manager, Government of India Press, while submitting the proposals for the revision of scales of pay in the lower grade to the Government of India has further reduced them?

**The Honourable Sir Frank Noyce:** The answer to the first part is in the negative. Government have before them proposals for scales of pay which will apply to new recruits but I am not in a position to say what they are.

**AMOUNT SPENT ON THE QUEEN MARY ZENANA GHAT, PUSHKAR.**

**198. Mr. Gaya Prasad Singh:** (a) Will Government be pleased to state how much money has been spent on the Queen Mary Zenana Ghat, Pushkar, on account of:

(i) building materials such as stones, lime, iron, wood, cement and fares;

(ii) expenses incurred for officers;

(iii) ground purchased?

(b) Will Government please state if anything is spent on the said *ghat* from the funds of the Pushkar Jagir Committee?

(c) Will Government please state what amount of money has been spent by the Vice-President of the Pushkar Jagir Committee in connection with the collection of funds for the said *ghat*?

(d) Will Government please state how much money in all has been collected towards the buildings of the Queen Mary Zenana Ghat, Pushkar, and has all the money collected been spent over it?

(e) Will Government please state whether it is a fact that the Government engineers have expressed the opinion that this *ghat* is very weak in its foundation?

(f) Will Government please state whether the *Khewatdars* of Pushkar applied to the Local Government for the formation of a "*Khewatdar* Committee" and if so, what steps Government have taken towards it?

(g) Are Government aware that the Pushkar Jagir Committee is debarred from selling public lands according to the Ajmer-Merwara Regulation, but has been doing so?

**Mr. H. A. F. Metcalfe:** The information asked for has been called for and a reply will be laid on the table in due course.

**STATEMENTS LAID ON THE TABLE.**

**The Honourable Sir Harry Haig** (Home Member): Sir, I lay on the table:

- (i) the information promised in reply to starred question No. 400 asked by Mr. C. C. Biswas on the 21st February, 1933; and
- (ii) the information promised in reply to starred question No. 525 asked by Mr. S. C. Mitra on the 27th February, 1933.

**PORTION OF THE CALCUTTA MAIDAN HELD BY THE ROYAL TURF CLUB FOR USE AS A RACE COURSE.**

\*400. The main terms and conditions on which portions of the Calcutta Maidan are occupied by Football, Golf and other Sports Clubs and by the Ronaldshay Hut are as follows :

*Football and other Sports Clubs.*—Permits for recreation grounds are issued by the Commissioner of Police, Calcutta, for the season, subject *inter alia*, to the conditions—

(1) That the ground shall be kept clean and chairs, etc., shall be removed immediately after play is over.

(2) That the ground shall not be roped off or enclosed except with the permission of the Commissioner of Police.

(3) That on Sundays no game shall be played in which gate money of any sort is demanded or which may attract any crowd.

(4) That tents of a prescribed pattern may be erected on sites selected by the Commissioner of Police for a fee of rupee one monthly per tent to be paid in advance and that the tents are closed by 8 P.M. every evening.

(5) That a nominal roll of members will be submitted to the Commissioner of Police within a fixed date twice a year.

*The Royal Calcutta Golf Club.*—(1) That no railing or garden shall be made round the Pavilion erected by the Club.

(2) That the Club shall pay the rent of Rs. 20 *per mensem* for their Pavilion.

(3) That permission shall be applied for annually to allow the building to stand.

*The Ladies Golf Club.*—(1) That nothing in the way of a permanent structure (e.g., of concrete or masonry) shall be erected.

(2) That a site and elevation plan of the existing building shall be furnished by the Club to the Commissioner of Police and no additions and alterations shall be made to the pavilion without his written permission.

(3) That the pavilion shall be maintained in good repair and shall be kept properly painted, and repairs shall be carried out at least once a year or at any other time when called on by the Commissioner of Police.

(4) That the Club shall pay an annual rent of Rs. 60.

*Ronaldshay Hut.*—(1) That the Young Men's Christian Association shall have the right continuously to use the site for the purpose of the Ronaldshay Hut.

(2) That the Hut shall be maintained and conducted by the Association in all respects according to the satisfaction of the Government of Bengal and no alteration or extension shall be made thereto without permission.

(3) That the Association will pay on the 1st April the sum of Re. 1 for the use of the site.

(4) That the Association will forthwith at any time on receipt of notice in writing to that effect from the Government of Bengal at their own expense remove the Hut and all necessities and restore the site to its former condition to the satisfaction of the local Government. On any default under the provision the Government may carry out the necessary work and the cost therefore shall be paid by the Association on demand.

**SUPPLY OF BOOKS TO STATE PRISONER, MR. SUBHAS CHANDRA BOSE.**

\*525. (a) Yes.

(b) There is nothing on record to show that Mr. Subhas Chandra Bose used the library previously.

(c) to (f). The application of Mr. Bose for the supply of certain books was forwarded in accordance with the usual practice through the C. I. D., Bengal, who suggested that if books were issued, they should be examined by the C. I. D. The Government of Bengal sent the application to the Librarian, who replied that he could supply books on the usual terms, but arrangements for safe transit and custody should be made if the books were to be examined by the C. I. D. Mr. Bose left for Bhowali on the 8th October, 1932, and the matter was not further pursued.

(g) and (i). These questions do not arise as the matter which State Prisoners should be allowed to read is not one for the decision of the Librarian.

(h) Yes.

**The Honourable Sir George Schuster** (Finance Member): Sir, I lay on the table the information promised in reply to starred question No. 851 asked by Pandit Ram Krishna Jha on the 21st March, 1933.

**RECRUITMENT IN THE OFFICE OF THE DEPUTY ACCOUNTANT GENERAL,  
POSTS AND TELEGRAPHS.**

\*851. (a) A competitive examination was held by the Accountant General, Central Revenues, in February, 1931. This examination was intended primarily to facilitate the selection of clerks for the Accountant General, Central Revenues' office who corresponds to Upper Division clerks in the office of the Deputy Accountant General, Posts and Telegraphs, and was not intended for recruitment of Lower Division clerks—a class which does not exist in the office of the Accountant General, Central Revenues. The Deputy Accountant General, Posts and Telegraphs, agreed to recruit passed men when necessary as clerks in the Upper Division and also proposed to consider the cases of such of the successful candidates as were willing to accept Lower Division appointments in his office.

(b) None; a few men are offered posts, but either because the post was refused or because the men were not immediately available none of the men who qualified in the recruitment examination was appointed to the Lower Division in the office of the Deputy Accountant General, Posts and Telegraphs. In the meantime the position changed owing to the retrenchment campaign.

(c) (i). 25 men. These men were qualified for appointment though they had not passed the recruitment examination of 1931.

(c) (ii). They were recruited mainly from the following sources :

- (1) Lower Division temporary clerks discharged on the reduction of item work and re-appointed when Upper Division posts were converted into Lower Division posts.
- (2) Men discharged from other Accounts and Audit Offices who were qualified and had experience of audit work.
- (3) In five cases sons or nephews were appointed of officials retrenched before they had reached the age of retirement as a measure of economy.

(d) Will be considered when vacancies occur.

**Mr. H. A. F. Metcalfe** (Foreign Secretary): Sir, I lay on the table the information promised in reply to starred question No. 790 asked by Mr. Gaya Prasad Singh on the 20th March, 1933.

**ARREST OF INDIANS IN GERMANY.**

\*790. The Government of India have received information that two Indians A. C. N. Nambiar and M. J. S. Naidu (son of Mrs. Naidu) were among foreigners recently arrested in Germany. Of these, Naidu was subsequently released. Nambiar was also released on the 25th March, 1933, and has been required to leave Germany by the 31st March, 1933. It has been alleged that a large quantity of Communist subversive propagandist literature was found amongst Nambiar's papers. He received good treatment during his detention and his interests were closely watched by His Majesty's Embassy.

**Sir Thomas Ryan** (Director General of Posts and Telegraphs): Sir, I lay on the table the information promised in reply to unstarred question No. 142 asked by Mr. N. M. Joshi on the 27th March, 1933.

### FILLING UP PERMANENTLY OF CERTAIN APPOINTMENTS IN THE BOMBAY CITY POST OFFICE.

142. (a) and (b). The facts are substantially as stated by the Honourable Member.

(c) As regards the first part, the appointments are not vacant but filled up in an officiating capacity. The Honourable Member is referred in this connexion to the reply given to part (d) of his own starred question No. 398 in this House on the 19th September, 1932. As regards the second part, no time scale appointment was reduced during the period in question.

(d) No. The Honourable Member is referred to the reply to the first part of (c) above.

**Mr. P. R. Rau** (Financial Commissioner, Railways): Sir, I lay on the table the information promised in reply to starred question No. 1050 asked by Lieut.-Colonel Sir Henry Gidney on the 1st April, 1933.

### CONTRACTS IN THE TRANSPORTATION DEPARTMENT ON THE BHUSAWAL AND NAGPUR DIVISIONS OF THE GREAT INDIAN PENINSULA RAILWAY.

\*1050. (a) Government are informed that on the Bhusawal and Nagpur Divisions a certain firm holds the major proportion of the coal and shed and ash pit cleaning contracts but has not a monopoly, there being four firms who hold contracts for this work.

(b) Government understand that contracts were advertised.

(c) Tenders were invited through the medium of the *Times of India*, the *Statesman* and the *Sanj Varteman*, and the following 9 contractors submitted tenders:

Finda Ally Tyebally.

Mathura, son of Sheolal.

Syed Tufail Ahmed.

Ram Kumar.

Balwant Singh.

Mohammed and Son.

Ardeshir Cowasjee Amroliwala.

R. V. Kulkarni and Brother.

K. Maheshden Singh.

(d) The Agent reports that negotiations with contractors to reduce their rates were undertaken during the financial year 1931-32 prior to the question being raised in the Assembly last year. On the Bhusawal Division the savings arising on account of more favourable coal handling and similar rates are in the region of Rs. 20,000 per annum.

(e) Eight coal handling, shed and ash pit cleaning contracts are reported to have been allotted to the firm which holds the major proportion of the contracts. This firm has not been allotted any contracts on any of the other Divisions of the G. I. P. Railway.

(f) The Railway proposes, when expedient, to call through the medium of the public press for tenders for coal handling and similar contracts when the current contracts expire. Obviously it cannot undertake that contracts will necessarily be given to the contractor who submits the lowest tender.

**Mr. G. S. Bajpai** (Secretary, Department of Education, Health and Lands): Sir, I lay on the table the information promised in reply to unstarred question No. 146 asked by Mr. M. Maswood Ahmad on the 30th March, 1933.

### PRESENTATION OF A MINIATURE PALACE MADE OF SALT TO THE SUPERINTENDENT OF EDUCATION, DELHI.

146. (a), (b) and (c). A small toy made of bits of wire lined with salt was sent by a non-official gentleman. This toy cannot be described as a miniature palace and had no intrinsic value. Most of the salt lining had fallen off before the toy arrived. If the Honourable Member can suggest the name of any museum willing to accept this toy, it will be immediately sent there. There has been no breach of the Government Servants' Conduct Rules.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): I have to inform Honourable Members that today I propose to sit till about 6-30 or 6-45 in the evening.

**Mr. Gaya Prasad Singh** (Muzaffarpur *cum* Champaran: Non-Muham-  
madan): Sir, I wish to submit one thing. I must honestly tell you that I have no desire of prolonging the Session beyond the Easter holidays, but on one of the non-official days, which are few and far between, when a suggestion was made about sitting a little late, you asked Government whether they agreed to it or not. Government refused to sit late, and then you referred the matter to us whether we intended to sit late. The same procedure ought to have been followed in the present case. It is open to Government to postpone a few of their measures to the Simla Session. I do not want to sit beyond the Easter holidays, if I can help it. But non-official business should be treated in the same way as the official business, and no sort of preferential treatment should be accorded to Government business. That is my submission.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order: The Honourable Member has evidently misunderstood what took place on the non-official day. The Chair did not consult Government whether it suited their convenience. When the Chair proposed to sit late that day, the Leader of the House announced on behalf of the Government that they had got an Executive Council meeting at 6 o'clock and the intention of the Chair was also to sit up till 6 o'clock. But the proposition was put to the House and the Chair thought that there was a serious difference of opinion amongst the Non-Official Members and not amongst the Official Members on that point. The Chair proposes to deal both with official and non-official days on the same footing. ("Hear, hear" from Non-Official Benches.) In this particular case, from the inquiries made, the Chair came to know that a great many Non-Official Members will not object to sitting late today and for the next two days. Certain inquiries were made and the Chair was given to understand that a great many Non-Official Members did not object to it.

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions: Non-Muham-  
madan Rural): Sir, we have not been consulted. Neither our Party nor our Leader has been consulted. I think we may sit for some time longer, but not till half past six, but if we are forced to sit, we will do so even up to midnight.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): May I request those Honourable Members, who object to sit late, to get up in their seats?

(Several Honourable Members got up in their seats.)

**Sir Cowasji Jehangir** (Bombay City: Non-Muhammadan Urban): I object to half-past six and I have my reasons for doing so.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): What are your reasons?

**Sir Cowasji Jehangir:** Sir, all we think is that notice should be given if we are to sit later than six o'clock, as we all have made important engagements. Assembly work of course takes precedence over all other business, but if we are to sit late, we require a little notice that we are going to sit late and then we should have made our plans accordingly. At the most I think that we should sit till six o'clock, but if we are going to sit till half-past six—I am prepared to sit even after dinner—I think, Sir, you should give us proper notice, so that we may cancel our appointments and be present here to facilitate the despatch of Assembly business. I think that the convenience of Non-Official Members should also be taken into consideration and the hour should not be changed without notice to Honourable Members. If you, Sir, in your discretion desire that a further hour should be given and ask us to come after dinner, I, personally speaking for myself, will have no objection to go on and finish the work that is before the Session, but if you decide to go beyond a certain hour, it does inconvenience Members who have made previous arrangements.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions: Non-Muhamadan): Sir, though I was not consulted, I consulted my Party on the subject, and it is the unanimous wish of the Party to co-operate with the Chair in finishing the Session on or about the 12th, but not later. At the same time, as I stated earlier in the case of this extended Session, my Party is of opinion that contentious Bills might be held over till the Simla Session and, if that is once agreed to, there would be every co-operation on the part of this side of the House with Government to finish the work as quickly as possible without devoting over-time for the disposal of the work. I understand, Sir, that Members on the other side of the House do find it inconvenient to sit later than the 12th as much as it is inconvenient to us and to my Party. If we are to sit beyond five or thereabout, it would be convenient if we had timely notice of it. I, therefore, think that in view of the large number of Members who have got up opposing the sitting till half-past six, you will kindly reconsider your decision.

**Mr. C. S. Ranga Iyer** (Rohilkund and Kumaon Divisions: Non Muhamadan Rural): I rise to say, Sir, that some of the statements made by the Leader of my Party are somewhat inaccurate. (Laughter.) There was no unanimous decision arrived at in our Party regarding this matter. I believe the Honourable gentlemen present here will bear witness to what I said that we were not consulted, and, therefore, unanimity is out of the question.

**Sir Hari Singh Gour:** I rise, Sir, to make a personal explanation. There was a meeting of the Party, but my Honourable friend was not present.

**Mr. C. S. Ranga Iyer:** I understand from my friend, the Secretary of my Party that the meeting was not held owing to the want of a quorum. We are not in a position to anticipate what happens on the floor of the House and, after having heard Sir Cowasji Jehangir, I rise to say I am quite in sympathy with him. I would respectfully suggest to you, Sir, in view of the opinion of Sir Cowasji Jehangir, who speaks for his Party, I believe, that on this particular day we may sit till six o'clock, incidentally hoping

that Honourable Members on this side of the House will not prolong the agony of discussion so far as the debate is concerned and this is entirely in the hands of the Leaders of the Parties to regulate, because, as Sir Cowasji Jehangir has pointed out, most of us are unwilling to sit up late beyond six o'clock today. But, Sir, if you think it necessary to sit later, both Sir Cowasji Jehangir and myself will welcome the idea and request you to give notice to us of sitting late. Even though it is very inconvenient in this hot day to sit beyond six o'clock, we may be prepared to sit later tomorrow and, after dinner, if need be, the day after tomorrow.

**Mr. M. Maswood Ahmad** (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Half-past-six, Sir, will be too terrible, as there will be no time for *Asar* prayer, and asking us to sit up to half-past-six will not give us sufficient time to perform our *Maghrib* prayer as well. So it will be very inconvenient to Mussalmans

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. The Chair is always willing to meet the convenience of all sections of the House, especially with regard to the hours of sitting. One great difficulty which the Chair has always found is the fact that it vainly looks for any co-operation or guidance from Party Leaders in this matter. That is the most serious handicap for the Chair and for the House as a whole. But the Chair fully realises the point brought to its notice by the Honourable Member, Sir Cowasji Jehangir, and, with a view to meeting that point of view, today the Chair proposes to sit till about six o'clock. It is perhaps advisable for the Chair to give due notice now to Honourable Members with regard to the programme for the next two days. Tomorrow the Chair proposes to sit till about half-past-six and, if the state of business so demands, on Wednesday, the Chair proposes to call for a sitting at night after dinner.

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## THE INDIAN INCOME-TAX (SECOND AMENDMENT) BILL.

### PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

**The Honourable Sir George Schuster** (Finance Member): Sir, I beg to present the Report of the Select Committee on the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes.

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## THE INDIAN MERCHANT SHIPPING (AMENDMENT) BILL—*contd.*

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The House will now resume consideration of the Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes, as reported by the Select Committee.

The question is:

"That clause 12 stand part of the Bill."



**Mr. M. Maswood Ahmad** (Patna and Chota Nagpur *cum* Orissa : Muhammadan): Sir, I move:

"That in part (iv) of clause 12 (a) of the Bill, in the proposed *Proviso*, for the words 'six weeks' the words 'eight weeks' be substituted."

In this connection, Sir, I want to explain what will be the result of this amendment. The Select Committee and the Government have proposed several amendments in section 209A and the result of these amendments will be that this section will be read as follows:

"Where any pilgrim, who has been carried to the Hedjaz by a pilgrim ship with a return ticket issued in British India within the previous eighteen months, is, owing to his inability to obtain accommodation on a ship for which the return ticket is available, detained at Jeddah for a longer period than twenty-five days from the day on which he presents his ticket to the British Consul at Jeddah, notifying his desire to embark for the return passage, the master, owner or agent of the ship in which such pilgrim was carried to the Hedjaz shall pay to the Governor General in Council in respect of such pilgrim such sum not exceeding double the whole sum received by such master, owner or agent in respect of the return ticket as the Governor General in Council claims as the cost of repatriating the pilgrim together with a sum of one rupee for each day after the expiry of the twenty-five days aforesaid during which the pilgrim has been detained at Jeddah;"

And after this amendment which has been mentioned in clause 12(a) in sub-clauses (ii) and (iii), there are minor changes and so I will not read that portion—instead of the words "British Consul" the words "His Majesty's Representative" have been suggested, and so on. The most important amendment is in sub-clause (iv) which says:

"Provided, further, that in the case of any pilgrim whose ticket has been deposited with His Majesty's Representative at Jeddah the said period of twenty-five days shall, during the period of *six* weeks following the Haj day, be reduced to *fifteen* days beginning on the day on which such pilgrim notifies to His Majesty's Representative at Jeddah his desire to embark for the return passage."

So, Sir, if a pilgrim will deposit his ticket to His Majesty's representative within six weeks following the Haj day and will notify that he wants to go back to India, only then, out of twenty-five days, it will be reduced to fifteen days.

In this connection, Sir, I say that three kinds of men go to Hedjaz—rich men, the middle class men and, then, the very poor peoples. These pilgrims spend hundreds of rupees in going to the Hedjaz. 90 per cent. of the pilgrims go once in their life to the Hedjaz. There may be one or two exceptions who may go there eighteen or nineteen times; but in 90 per cent. of the cases a man goes there once in his life; and the middle class men who have got a little money manage somehow and collect some money to go to the Hedjaz and they go on camel from Mecca to Medina. The journey takes twelve days to reach Medina from Mecca and twelve days back to reach Mecca from Medina or a total of 24 days; they do it generally after performing the Haj. So this period of six weeks is quite insufficient. The men who go there go with their hearts filled with religious feelings. They do not go there on a pleasure trip. The love of Mecca and Medina takes them there; and to insist that these facilities will be given to them only if they will return or intend to return to India within six weeks is very hard. I appeal to the Government that they should consider this point: these men who go there once in their life, after spending hundreds and thousands of rupees, who go there just like dead bodies, who go there packed like lifeless articles, who reach Jeddah half dead, who reach there after spending 15 sleepless nights, who were treated just like a flock of sheep on board ship; and, after they reach Medina, to ask them to return to India within six weeks and not to allow

them at least eight weeks is very very hard indeed; and I would ask the Government for God's sake to consider this matter. This is a very serious issue: they should allow the Muslims to live at least for eight weeks there, and there is no harm if they allow them to do so. The same facilities, which they provide for pilgrims who return within six weeks, should be extended to those who take eight weeks in returning to Jeddah. I would have suggested more time, because a man who goes there once in a life time should be allowed more time to reside there and to have more prayers at Mecca and Jeddah, but I know Government will not be willing, and so this is a very moderate request that they should be allowed to live there for eight weeks.

**Mr. G. S. Bajpai** (Secretary, Department of Education, Health and Lands): Sir, I am afraid my Honourable friend has been trying to play upon one's feelings of sympathy quite unnecessarily. It is not that Government have no sympathy with those who go to make this pilgrimage: they do not want to prevent their going to Medina; but this period of six weeks has been calculated in relation to facts. The number of people actually getting back to Jeddah for return to India after the Haj is about 75 per cent., i.e., the pilgrims who come back within ten days: so that by the end of six weeks practically the whole of the traffic is exhausted. Therefore, there is no justification for extending the period beyond six weeks which is the period which we have fixed. We have to consider the convenience of pilgrims undoubtedly; but at the same time it is not fair to expect the shipping company to have ships available indefinitely for individual stragglers who may filter down to Jeddah. I, therefore, regret that I cannot accept the amendment.

**Mr. Muhammad Azhar Ali** (Lucknow and Fyzabad Divisions: Muhammadan Rural): Sir, I have listened with great patience to the speech delivered by my friend, Mr. Bajpai. I should like to remind him that this is not a matter of ordinary travelling by railway. This is a matter of going from one part of the world to another and it entails travelling by ships, by camels, by motor cars and by various other means . . .

**Mr. G. S. Bajpai:** My friend does not suggest that people should travel from Mecca to Medina by ship, does he?

**Mr. Muhammad Azhar Ali:** I am so sorry that my Honourable friend has not got the intelligence to understand that when people have to go from India to Mecca and Medina, they have to use ships, motor cars, camels and everything. So, what I suggest is that the strict rules for persons who go to this pilgrimage should not be enacted. This is not an extraordinary desire on the part of my Honourable friend, Mr. Maswood Ahmad. It is a very small matter. If the man cannot return by one ship, he can return by another ship; if the return ticket is to be made a condition precedent, then at least this much concession ought to be given to persons who travel from one land to another. It is not a matter of great importance for my friend who may shake his head here; but it is a matter of very serious consideration to the Muslims who go from one land to another land. It may be very easy for officials to imagine that it will not entail very great difficulty or very great trouble for the pilgrims; but it is undoubtedly a matter of very serious consideration

[Mr. Muhammad Azhar Ali.]

for a man who has to travel for the Haj from one place to another far outside his country: and there it will not be the British Government who will be prepared to help them: they will be met with opposition from the shipping company; but why should the Government give so much latitude to the shipping agents and to the shipping companies and not give any sort of latitude to their own subjects when they go to different lands for purposes of their religious duties? I do not find any reason for this stiff attitude on the part of the Government. It is not a matter of catching another train if one is missed: it is a question of being away for six weeks and it is quite possible that people going to the pilgrimage may spend away all the money they carry with them and rely only on the passage money which they have put in for the return ticket; they will have no money and they will be landed in difficulty. Supposing I or any Member takes his family and one of the members falls sick, what will then happen? Either he must return by the ship that is provided by the company or, if he cannot return, then what will happen? He will have to return.

**Sir Muhammad Yakub** (Rohilkund and Kumaon Divisions: Muhammadan Rural): Will the Honourable Member kindly explain what clause we are discussing and what is the purport of that clause?

**Mr. Muhammad Azhar Ali:** We are discussing clause 12 which has been very elaborately explained by my friend, Mr. Maswood Ahmad, and the same argument applies.

**Maulvi Muhammad Shafee Daoodi** (Tirhut Division: Muhammadan): Sir, it is quite true that if we had more than six weeks it would have been more convenient to the pilgrims; but we have to take all sides of this question into consideration. The considerations which have been put forward by my friends in support of the amendment do not seem to be correct. We did try in the Committee to extend the period of six weeks as far as possible so that the fifteen days rule might apply to those who may stay longer than six weeks; but when we were pressed with the view point of the shipping companies we had to consider as to what was the maximum time required for returning to Jeddah. At that time the points which we had in mind were these. The first was the 12 days spent in going to Medina from Mecca and 12 days coming back from Medina to Mecca together 24 days: and then forty times prayer in Medina is what is considered a pious duty: those prayers are performed in eight days at the rate of five times a day: allowing eight days for this, we have altogether 24 plus 8—32 days. Then we gave a margin of ten days more and the whole thing came to 42 days or six weeks; and in this way we came to the conclusion that six weeks might suffice and we might compromise with the shipping companies that six weeks should be the period. Of course if we want to ventilate our views to the public in the way my friends are doing, that is quite a different matter altogether. But when we have to become practical men and solve the difficulties which arise between the two different views, we have got to come to some conclusion, and this was the calculation which we made and we came to this "six weeks"; if my friend can succeed in persuading the shipping companies to agree to eight weeks, I have no objection. With these words, I resume my seat.

**Mr. Muhammad Azhar Ali:** Sir, I will ask a question of my friend. Is it in my power to persuade the shipping companies or is it in the Government's power?

**Maulvi Muhammad Shafee Daoodi:** It is in the power of Government and Government explained to us that they had done their best in persuading the shipping companies and we also considered those points which we have placed just now before the House, and we gave ten days' extra time to the pilgrims for the purpose of coming back to Jeddah.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That in part (iv) of clause 12 (a) of the Bill, in the proposed *Proviso*, for the words 'six weeks' the words 'eight weeks' be substituted."

The motion was negatived.

**Mr. M. Maswood Ahmad:** Sir, I beg to move:

"That in part (iv) of clause 12 (a) of the Bill, in the proposed *Proviso*, for the words 'fifteen days' the words 'ten days' be substituted."

Sir, I realise that it is very difficult in this House to carry any amendment, but I do my duty and when I move these amendments, I place the feelings of Muslims before this House, and for no other reason. All the speeches for and against will be on the record and the public will decide who has placed their views on the floor of this House. If we are defeated, it is not because the amendments are not reasonable, but it is the fault of the Constitution that we cannot carry these amendments.

Sir, Government have not cared to know the views of the Muslims on this point. They do not circulate the Bill; they are not dissolving this House so that the public may express their opinion about us. Sir, it is very difficult to convince Government when they have definitely decided not to be convinced and to pass anything.

The effect of this amendment will be that a man who reaches there at Jeddah within six weeks, as has been calculated by my friend, Mr. Shafee Daoodi, to which erroneous calculation I do not agree, should get his steamer within 10 days instead of 15 days. Though it is binding on a man to live at least for eight days in Medina, it is not binding on him that he should leave Medina just after eight days. Even if a man will come away from Medina after eight days and will reach Jeddah, he will be asked to stay there for 15 days to get a ship to come back to Bombay or Karachi.

The great trouble is that Government have always taken those things which are injurious to the pilgrims and they have put those in this Bill to discourage the pilgrimage. All the beneficial suggestions and recommendations of the Haj Inquiry Committee have been overlooked in all cases as I pointed out day before yesterday.

**The Honourable Sir Frank Noyce** (Member for Industries and Labour): No.

**Mr. M. Maswood Ahmad:** My Honourable friend says, no. I will give a quotation in support of my view in this matter. I think I am correct when I say that Mr. Hassanally P. Ibrahim was also a member of the Haj Inquiry Committee. I am thankful that my Honourable friend does not say no to that also. And here is a pamphlet sent by him which gives the opinion of His Majesty's representative at Jeddah in his evidence before the Haj Inquiry Committee on this point. He says:

"The British Consul at Jeddah rightly stated before the Haj Inquiry Committee in this respect that ships should be waiting for pilgrims instead of pilgrims waiting for ships."

His Majesty's representative says that ships should be waiting for pilgrims and here is this Bill and my Honourable friend says that the men should be waiting at Jeddah for 15 days.

**The Honourable Sir Frank Noyce:** I said nothing of the sort. My Honourable friend's contention was that every beneficial recommendation of the Haj Inquiry Committee had been ignored. That contention I stoutly deny.

**Mr. M. Maswood Ahmad:** If I go on to speak on those points I will not be relevant and the Chair will call me to order if I quote all the recommendations of the Haj Inquiry Committee to prove my point. I must, therefore, restrict my speech within the Standing Orders of this House. If my friend wants to know and if the Chair allows me to speak for three hours on the third reading, I would be prepared to quote all those beneficial recommendations which have been overlooked.

I have shown that 15 days is too much. Government have showered a good deal of sympathy on Turner Morrison and Co. When there were Namazi and Co. and other companies, Government did not care to show any sympathy to them. When those companies are no longer there and only the Turner Morrison and Co. are left, Government want to shower on them so many boons which are in the clauses here. Instead of a bond for each pilgrim ship, they give them one bond for all the pilgrim ships for the whole season, and so on. I do not want to take the time of the House on that point. I have placed the opinion of His Majesty's Representative at Jeddah. I say that pilgrims should not be waiting for ships rather the ships should be waiting for the pilgrims. These pilgrims who, according to the nice calculations of my friend Maulana Shafee Daoodi, should be forced to leave Medina after eight days, should be given an opportunity to get ships at Jeddah within ten days and not 15 days. So, I move, that instead of 15 days the limit should be 10 days.

**Maulvi Muhammad Shafee Daoodi:** Sir, I have again the misfortune to differ from my Honourable friend who has moved this amendment. It appears he wants to throw the blame of his not supporting one important measure about the retention of only one system, *viz.*, the deposit of passage money, on the shoulders of others. He has taken this opportunity to bring that matter in. It was he who raised the point of order yesterday on this question when Haji Wajihuddin and I, along with my other friends, were going to support that amendment, and the question had to be dropped according to the ruling given by the Chair. Now, on this question again, if my friend's intention is to block the passage of the Bill or to prolong the proceedings, that is a different

12 Noon.

matter altogether, but if his object is to seek the convenience of the pilgrims, then he should be consistent. These are little points which my friend should have urged in the Standing Haj Committee, of which he was Member for three years. He did not raise that point in the Standing Haj Committee . . . . .

**Mr. M. Maswood Ahmad:** I am raising that point here. What is the difference?

**Maulvi Muhammad Shafee Daoodi:** Sir, it was at the suggestion of the Standing Haj Committee that this Bill was introduced in the Assembly in the beginning of 1932. That Bill did not find any mention of conveniences of this kind which are now asked for. When the Bill came before the Select Committee at Simla, of which I and others were also Members, we thought that this question should be raised and solved in a manner which might not create any difficulties, and the duration of 25 days was by compromise reduced to 15 days. Even at that time my friend did not ask for ten days as he is doing now. He saw that after 15 days had been secured, he should still further ask for the reduction of the duration from 15 to ten days. We can go on with this kind of bargaining till we come down to the minimum of one day. It is quite right if you take that view, but if you are a practical man and if you want to give the pilgrims all the conveniences, then we have to look to other matters as well. My friend ought to have urged these points in the Standing Haj Committee, but he did not do so. It was we, Sir, who pressed for this point, and we got the . . .

**Mr. M. Maswood Ahmad:** I had raised the point in the Select Committee. It is incorrect to say that I did not raise that point there.

**Maulvi Muhammad Shafee Daoodi:** We got the period of 25 days reduced to 15. Now, when the Bill comes up in the present form, the Honourable Member raises a new point. He has not even written a minute of dissent on this question . . . . .

**Mr. M. Maswood Ahmad:** This is incorrect again. If my friend will refer to page 5 of the Select Committee report he will find that I have written the point in my minute of dissent . . . . .

**Maulvi Muhammad Shafee Daoodi:** May I know at what page?

**Mr. M. Maswood Ahmad:** Page 5.

**Maulvi Muhammad Shafee Daoodi:** Where is it?

**Mr. M. Maswood Ahmad:** Please see at the bottom of page 5, 11 lines up from the bottom in column 1, where I have said "10" days should be substituted for "15" days.

**Maulvi Muhammad Shafee Daoodi:** But you did not raise this question in the Committee itself. My friend might have thought over it at home, because he did not raise the question in the Committee itself. However, my point is that we should not be thinking of our constituencies when we are framing laws in this House. We should think of the justice of the cause

[Maulvi Muhammad Shafee Daoodi.]

which we are pleading and not of any demonstration outside the country, otherwise we cannot come to any conclusion if we have this sort of propaganda spirit in us.

**Mr. G. S. Bajpai:** Sir, a good deal that I would have said otherwise has already been said by my friend, Mr. Shafee Daoodi. The one point that I would like to bring to the notice of the House is this. As it is, a reduction from 25 days to 15 days is a concession, and the proviso will apply only in the event of any ship not being available at Jeddah with accommodation to take the pilgrims on. Supposing that situation arises, the Consul or the representative of the shipping company has to get a ship all the way from Bombay, and we have to take into account the time that the ship would take in order to get from Bombay to Jeddah. That is the reason, Sir, why we have fixed the period of 15 days and not 10 days, because this is a practical proposition. We are not dealing with arbitrary figures, whether we can do with 6, 8, 10 or 15 or anything that may commend itself to the Honourable Member's fancy. That is why we have fixed 15 days, and I regret that I am not in a position to accept the amendment.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That in part (iv) of clause 12 (a) of the Bill, in the proposed *Proviso*, for the words 'fifteen days' the words 'ten days' be substituted."

The motion was negatived.

Clause 12 was added to the Bill.

Clauses 13 and 14 were added to the Bill.

**Mr. M. Maswood Ahmad:** I move, Sir:

"That after sub-clause (2) of clause 15 of the Bill, the following new sub-clause be added:

'(3) After sub-section (2) of the said section, the following sub-section shall be inserted, namely:

'(2A) The master, owner, captain of a pilgrim ship or their agent, after each voyage, should obtain a detailed certificate from each pilgrim or from each head of a party of pilgrims on a prescribed form in a prescribed manner that the provisions of the Act or Acts were carefully followed and the pilgrim has or has not, as the case may be, any grievance against the ship authorities or against the medical officer.'"

The object of this amendment is that all the provisions of this measure should be given due care. Now, the great change that has been made in this Bill is that pilgrims will in future get cooked food. I urge that Government should issue printed certificates to each pilgrim or the head of a party of pilgrims, and on these certificates they should say whether they got the food and medicine properly or not. Sir, very few people go and ask for the complaint book on which they can write their remarks against the company. In several cases, and it is my own personal experience, it is very difficult to get these complaint books. Once I was travelling to Tirhut, the division of my friend, Maulana Shafee Daoodi Sahab. On the way I wanted some food from a refreshment room on the B. and N. W. Railway. The food supplied was of a very

bad quality, and so I wanted the complaint book to put in my remarks about the bad quality of the food. The man on duty in the refreshment room said that the book was lodged with the manager. I waited for a long time for the manager, but he did not turn up. Then I went to the Station Master, and he said that he had no authority to force the man to give me the complaint book. I asked him then to take my statement. If my friend doubts what I say, I can give him the accurate date as well. So it took about an hour in this connection. I waited for the manager, then I went to the Station Master, and so on. I had to take so much trouble. So I say it is generally very difficult to get access to these complaint books. I was not a Member of the Assembly then,—but I say it will be very difficult for these illiterate pilgrims to force the Captains to supply them with the Remarks Book or even to go to the Haj Committee to express their complaints. If Government are really honest and sincere in their intention, they must provide each pilgrim with a printed certificate in which he may say that so much space was given, that such kind of food was given, and so on. If Government accept the principle of this amendment, I have no objection if they change its wording to any suitable form just as they did day before yesterday. The main idea is this that each pilgrim must get an opportunity to say what he wants to say.

There is another trouble which Hajis experience. At present they cannot return easily on any other ship except the ship of the Turner Morrison and Company. You remember, Sir, the other day I put a question on this subject and it was admitted by my Honourable friend, Mr. Bajpai, that once a few pilgrims came to India on some German ship. Government did not like it. They wanted to bring a suit against the Company and an explanation was called for. The Company wanted to be pardoned and then my Honourable friend, Mr. Bajpai, dropped the matter. The men who travel are in a very handicapped position.

Sir, if my proposal will cost a pie more for printing the forms or if you want a clerk for this purpose, it will come to one anna per head and I ask Government to raise the fare by one anna so that the pilgrims, when they come back to Bombay will be able to mention all their grievances. If it be found that there was anything wrong, the Port Haj Committees, and not these pilgrims, should be asked to lodge any information or bring any case against the ship. Sir, I move.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Amendment moved:

"That after sub-clause (2) of clause 15 of the Bill, the following new sub-clause be added:

'(3) After sub-section (2) of the said section the following sub-section shall be inserted, namely:

'(2A) The master, owner, captain of a pilgrim ship or their agent, after each voyage, should obtain a detailed certificate from each pilgrim or from each head of a party of pilgrims on a prescribed form in a prescribed manner that the provisions of the Act or Acts were carefully followed and the pilgrim has or has not, as the case may be, any grievance against the ship authorities or against the medical officer.'"

**Mr. G. S. Bajpai:** The object of the Honourable Member has the fullest sympathy of Government and I interpret that object to be not the throwing of more work on the officers of the ship, but the bringing to the notice of the



[Mr. G. S. Bajpai.]

Captain the difficulties to which these people may be subjected with a view to having their grievances redressed. Now, there is a two fold provision with regard to that made in the Port Haj Committee's Bill, which is now law, which was passed in September last. Sub-section (f) of section 18 of that Act entrusts the Port Haj Committees with the function of bringing the grievances of pilgrims and any irregularities or omissions on the part of a master or owner of a pilgrim ship in the carrying out of the provisions of the Indian Merchant Shipping Act, 1923, to the notice of the authorities concerned and to suggest remedies. That is the first provision. The second is, in order to establish a liaison between the pilgrims and the Port Haj Committees that there shall be, whenever practicable, an individual pilgrim or a Committee of pilgrims on board a pilgrim ship to represent the grievances of the pilgrims to the master or owner of the ship. So we have provided an organisation for making representations to the authorities concerned and we have provided for the requisite liaison between the pilgrims and the Port Haj Committees. In these circumstances, this amendment is superfluous and I oppose it.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That after sub-clause (2) of clause 15 of the Bill, the following now sub-clause be added:

'(3) After sub-section (2) of the said section, the following sub-section shall be inserted, namely:

'(2A) The master, owner, captain of a pilgrim ship or their agent, after each voyage, should obtain a detailed certificate from each pilgrim or from each head of a party of pilgrims on a prescribed form in a prescribed manner that the provisions of the Act or Acts were carefully followed and the pilgrim has or has not, as the case may be, any grievance against the ship authorities or against the medical officer ' ' "

The motion was negatived.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That clause 15 stand part of the Bill."

The motion was adopted.

Clause 15 was added to the Bill.

**Mr. D. G. Mitchell** (Secretary, Legislative Department): Sir, I move:

"That in sub-clause (1) of clause 1, for the figures '1932' the figures '1933' be substituted."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

The Title and the Preamble were added to the Bill.

**Mr. G. S. Bajpai**: I move that the Bill, as amended, be passed.

**Mr. Muhammad Anwar-ul-Azim** (Chittagong Division: Muhammadan Rural): Mr. President, it is far from my purpose to delay the passage of this Bill, but I think it will be criminal folly if I allow this stage to pass without saying a few words about certain Honourable Members who spoke on behalf of Government during the progress of the Bill. Government's

excuse seems to have been that there should not be any criticism of this Bill because this is a new venture and so it will not be right for anybody to be very critical, but, it seems that personally speaking nobody here, not even a Mussalman Member, would object to a measure like this being passed without hitch if it is a fairly good measure, but some Honourable and aggressive friends, by trying to please Government, go out of their way and take the responsibility on their head and try to injure the feelings of others, and perhaps that is the cause of the delay of the passage of this measure. At times, Government have said: "Oh, we have got the Port Haj Committees. Why bother about doing this or that. Government are very vigilant and solicitous". But they should have seen whether these Committees were actually functioning and whether their services were available during the past Haj season; and, as a matter of fact, the Government in their inordinate anxiety have also missed the Haj before last. You will find, Sir, that this Bill was introduced about a couple of years ago; and if Government have been so solicitous with regard to Muslim opinion and about putting this Bill on the anvil, how is it that it has taken them about two years? But I do not blame them. They are entitled to have their own time, but it seems that Government at times, by trying to delegate their responsibility to the shoulders of others, are unnecessarily bringing up controversies which could be very well avoided. We all know of course that with the Government's standing majority in this House, this Bill will have an easy passage (Hear, hear), but I am still of opinion that though it is a trial of first venture, it may be improved if Government do take the real Muslim opinion into their confidence and not rely on the *sub-junta* Haj Inquiry Committee (Hear, hear) (Laughter), which functions either in Delhi or sometimes, to suit their own purpose and convenience, in the cool climate of the Simla Hills. That being the case, I do not think I ought to say anything more.

**Mr. M. Maswood Ahmad:** Sir, I oppose the Bill—not clause by clause—but I oppose the whole Bill being passed. Sir, I want to reply first to the point raised just now by my Honourable friend opposite that Government have not rejected the recommendations of the Haj Inquiry Committee, and in this connection, I would like to ask: "Have Government accepted *all* the recommendations of the Haj Inquiry Committee?" The reply must be, no. When Government had not accepted all the recommendations, then what was wrong if I said that they had selected only a few recommendations and put them into this Bill? Sir, as my time is limited, I shall not be very exhaustive, but I would ask only another question: "What was the recommendation of the Haj Inquiry Committee about the formation of a Port Haj Committee, and what has been done?" I have already shown at Simla that Government have not followed the recommendation. Sir, the facts cannot be denied. What was the recommendation of the Haj Inquiry Committee in connection with the alley-way? They rejected it, as also my amendment on that point.

My Honourable friend, the Maulana Sahab, said that alley-way has been given and that it has been duly calculated. But on p. 183 I find their remarks to the effect that "similar allowance should be made in the between-deck as at present", but there is made no provision for any such passage. After this, what right have they got to say that the alley-way is deducted?

[Mr. M. Maswood Ahmad.]

I warn the Government, Sir, that they must take these things into consideration. Now, my Honourable friend, Mr. Bajpai, is under the oath of allegiance and he must advise the Government as to what would be the correct attitude. He must not do such things as to injure the feelings of Mussalmans unnecessarily in this matter. Sir, India is an eastern country, and we love our religion above all. We cannot allow the Government to play with our religion.

It was said yesterday that so much money had been spent on the Haj Inquiry Committee and that, after all, this was a unanimous recommendation of theirs and that that being so, the Government could not reject those recommendations. I say that not only one or two recommendations, but all the recommendations of the Haj Inquiry Committee were unanimous, and when the Government have rejected a few of them, what right have they got to say that they accepted a particular recommendation, *because* it was a unanimous recommendation? May I ask, whether recommendations which they have not accepted were not unanimous recommendations?

Sir, I must draw attention now to the analogy of the Ordinance of the Straits Settlements. In spite of the recommendation of the Haj Inquiry Committee that the Act in India should be based on that Ordinance, the clause in the Bill about the supply of good cooked food to the pilgrims is not based on the Ordinance of the Straits Settlements. There it has been said that good food will be supplied, and here the Government have kept that word "good" in their own pocket. They want that the Mussalmans must go to their doors and always knock, and so they have not provided that word here. I have shown that the word "fuel" was already mentioned there, but it is not mentioned here in the Bill. So Government have drafted this Bill, it would appear, not in accordance with the recommendations of the Haj Inquiry Committee. Why did not they take that whole clause from the Ordinance and put that in here? What was the necessity for omitting the word "good" before the word "food"? What was the necessity for omitting the word "fuel" from there?

Sir, as regards the question of half fare for children going to Mecca, it has been said that this matter would be brought to the notice of the International Sanitary Convention. Now I say that that question of fare cannot be raised before that body at all. First of all, I have tried to show clearly that that International Sanitary Convention was an *ex parte* document and now I say you cannot raise the question of fare there. What can they do there? They can only discuss purely sanitary conditions. Where is the question of sanitation in fare? Half fare does not affect the sanitation. Up till now these children are getting 16 sq. ft., and probably they would only say that children should get 8 sq. ft. Now I cannot be a party to all that, and I warn the Government today of that fact.

When Mussalmans are getting such small space,—2 ft. 8 inches wide and 6 ft. long, how bad that is! Even a dead body, as I have said, cannot be placed in a space of 2 ft. 8 inches! Is this humanity, Sir, that we Mussalmans should be asked to go to Mecca being huddled in spaces of 2 ft. 8 inches each? How can 1,500 pilgrims of each ship be asked, in the name of humanity, to accommodate themselves thus? Sir, I appeal to the House that they should not pass this Bill. And if the Government Member asks the House to pass this Bill, I would ask him that he should

run up to the Governor General and ask that under their own power this 16 sq. ft space should be raised to 18 sq. ft. Absolutely no space is given between two rows of men; there is no space between two pilgrims, so that if any pilgrim should turn, he would turn on another, and if any pilgrim will move an inch at night during sleep his toe will touch the head of the other man. Sir, I ask the Government in the name of humanity to consider these points.

I think I will not be out of order if I say something about food. The Leader of the House, Sir Brojendra Mitter, has been given the title of "Ullama" by my Honourable friend, Haji Wajihuddin, because he was in sympathy with Mussalmans while discussing the Child Marriage Restraint (Amendment) Bill.

**Khan Bahadur Haji Wajihuddin:** He fully deserves that title.

**Mr. M. Maswood Ahmad:** Certainly he deserves that title. He had full sympathy with the pilgrims as well on this question and he was willing to suggest to Government that there should be two kinds of tickets—one with food and the other without food. He himself has said that if he had been in the Committee he would have pressed this point. (Applause.) After all, Sir, I find that all these amendments have been opposed by the Government and we are forced to pay to the Turner Morison & Co. whether the pilgrims get food or not. Now, Sir, what happens generally in the case of a marriage party is that about 400 or 500 men gather together in one place. People who are responsible for feeding them start serving them with food from 8 A. M. and this process of feeding goes on sometimes even up to 3 P. M. or 4 P. M. In this connection they get the support of all the relatives also. It will be very difficult to find an open space on the ship where they can feed all these persons together at one and the same time. Then, Sir, you can just imagine what will happen in the case of these 1,500 pilgrims on board the ship who are packed there like a pack of sheep. They will be served on the deck. I am sure, 50 per cent., of the pilgrims will not get their food at all. Is this humanity? You want to keep them without food. Then, I will say another thing. There are so many taps on board the ship, still the fight goes on every day to get water. So, you can imagine what will happen when they go to get their food. A man will say: "Give me *dal*"; another will say: "Give me *korma*", and there will be such a pandemonium that there will be *dal* and *korma* on the beard and face of every pilgrim. My Honourable friend, Sir Muhammad Yakub, has said: "What about the *Purdahnashin* ladies? How will they be served? If you ask them to sit at one place, who will serve them?" But, Sir, I find that the advice of Sir Muhammad Yakub is acceptable to Government when it suits them, but his advice with regard to these poor pilgrims is not acceptable to Government:

"Tomy this  
And Tomy that  
And Tomy get away  
It is thank you Mr. Atkins  
When band begins to play  
And band begins to play  
And band begins to play."

There is the time when the band begins to play and on that occasion Sir Muhammad Yakub is thanked and asked to go with them in the same lobby. But when he says that the suggestion is unacceptable to our community, he is told that his proposal cannot be accepted.

**Kunwar Hajee Ismail Ali Khan** (Meerut Division: Muhammadan Rural): What about Sir Abdur Rahim's view?

**Mr. M. Maswood Ahmad:** I have already dealt with Sir Abdur Rahim's view. There are men here who prefer the Western Hostel, but the majority of us prefer to live in orthodox quarters. Those who are accustomed to live in Western Hostel would certainly not like these things. But those who are accustomed to live in orthodox style know that the health can be preserved only if the food is decently prepared and in a decent place.

**Pandit Ram Krishna Jha** (Darbhanga cum Saran: Non-Muhammadan): What about Maulvi Muhammad Shafee Daoodi?

**Mr. M. Maswood Ahmad:** I do not want to mention the names. I pray to God to pardon those Mussalmans who have opposed me in this matter if they were wrong and I was right. If I was wrong, then I will ask the Government '*Ihdi nas sarital mustaqim*' "show me the right path".

Sir, it was said that I was a non-co-operator, or I am a non-co-operator. I say, I am not a non-co-operator at all. Non-co-operators are in jail or outside this House.

**Maulvi Muhammad Shafee Daoodi:** That was not the remark, Sir. The remark was that he quoted papers and gentlemen outside the House who are non-co-operators.

**Mr. M. Maswood Ahmad:** It has been seen on several occasions that the new converts at the time of expressing their feelings are more enthusiastic. I am luckily not a new convert. My opinion today is the same as it was 10 years ago.

I have expressed my views that the whole Bill is unacceptable to the Mussalmans. It is injurious to the cause of Mussalmans. The Bill is in sympathy with the Turner Morison & Co., and I do not grudge it. But I want justice to be done to my community as well. Up till now in this House I have seen many Bills which contained clauses which were good, bad and indifferent, but this is the only Bill in which I find only two kinds of clauses, bad or indifferent. Even the Ordinance Bill which was passed in this House had something good in it, because it was meant to protect the liberty of others, although 99.99 per cent. of it was bad. But in this Bill there is nothing good for the pilgrims; they are only creating more trouble for them.

Sir, an Honourable Member said that the intention of God was that poor persons should not go to Mecca. I have got his speech with me. Because he is not in his seat, I will not name him. He said:

"The Government are performing the duty which God has ordered you to perform as a good Muslim, namely, to stop the poor Mussalmans to go to Hedjaz."

This was also the opinion of the Haj Inquiry Committee. On page 155, they say:

"Would-be pilgrims not in possession of this amount should be dissuaded from proceeding on the pilgrimage."

It is true, Sir, that our religion says that Haj is *fars* only for those persons who have *estetâat*, but in our religion there is *sunnat* and *mustahib* also. I would most humbly and respectfully ask him, what was the condition in the time of our Prophet? People having no money, people having nothing to eat, people having only one cloth were going to the Hedjaz on foot without any conveniences. They were often lying in the desert for want of food which was supplied by others. We Mussalmans are poor, but because we are poor, that is no cause for saying that we should give up all our religious functions. On the other hand the poor man has got more religious feelings than the rich man. It was the efforts of poor men which were responsible for the existence of so many Mussalmans in the world today. Sir, I will end my speech after reading a little passage from the Holy Koran :

“ *Ehde nassiratal Mustaqim, seratala zina anaamtalaaa aalahim.* ”

**Mr. G. Morgan** (Bengal: European): Sir, to be consistent, I have to oppose the Bill. My opposition to the Bill, as everybody knows, is on clauses 2, 3 and 4,—the question of the supply of cooked food. My Honourable friend, who has just sat down, said that Government in this Bill have shown every sympathy for the steamer company. Well, Sir, it is curious that, if that is so, I should be speaking in opposition to the Bill. As the Bill will be certainly passed, I only want to draw the attention of Government to one matter and that is that under clause 15 sub-clauses (f) and (ff) when rules and regulations are made by the Governor General I hope Government will discuss fully and practically the conditions of the carrying of food, and cooking of food and the menus, under the rules to be applied, so that in a practical manner these regulations may be carried out; and I hope that Government will give me an assurance that this will be thoroughly discussed with representatives of the steamer companies so that really something practicable and feasible may be evolved.

**Mr. Amar Nath Dutt** (Burdwan Division: Non-Muhammadian Rural): Sir, allow me to congratulate my Muhammadan fellow-subjects on their very good fortune in having a three full days' debate in which the question of closure did not intervene as was the case when another important Bill was discussed. What it is due to, I do not know; it may be due either to the presence of the Leader of the House of Elders or any other thing which has cowed down the spirit of asking for a closure on the other side. Still I congratulate my Muhammadan brethren on their very good fortune. Sir, the question that is before us requires to be viewed with a very dispassionate mind, and when you find that opinion is divided and when we find there is so much feeling as evinced by my friend, Mr. Maswood Ahmad, we the members of another community have a duty not only towards them, but towards ourselves as common citizens of our common motherland. Therefore, we should carefully consider the views of both sides before we exercise our right of vote. Sir, no doubt our Muhammadan fellow-subjects only are affected by the provisions of this Bill, but there are some questions regarding which we can claim to have some knowledge, such as sanitation and food and we can put forward suggestions which will be acceptable to the Muhammadan community. No one will deny that everyone would like to have the food to which he is accustomed and cooked by hands from which he is accustomed to take it.

**An Honourable Member:** What will you do in Europe?

**Mr. Amar Nath Dutt:** Orthodox Hindus will not take food cooked by men other than their own caste-men or Brahmins. There are of course members of my community who do not observe this rule, but there are many who stick to this rule still. When our Muslim brethren go on pilgrimage to Mecca for one month or two months, nobody will agree that they should be subjected to the kind of food to which they are not accustomed. I am glad that some of my friends have shown sympathy for the orthodox views of the Muhammadan community and this is as it should be. I hope they would show the same sympathy when their own religion and religious usage is concerned and, instead of being carried away by heterodox zeal, they will extend the same sympathy and consideration. Even my Honourable friend over there, the Leader of the House, who does not claim to be an orthodox Hindu, has that respect and consideration for the religious views and sentiments of the orthodox Hindus, but I regret very much there are some amongst us who do not do so and are friends of every other community but their own. I wish this will be borne in mind by them when again the occasion arises.

**Mr. Muhammad Muazzam Sahib Bahadur** (North Madras: Muhammadan): Sir, if I may touch upon that remark which my Honourable friend, Mr. Amar Nath Dutt, made just now with regard to the passage of this Bill which will become law in a few minutes more, I should tell him that the other Bill which we had under discussion previous to this concerned a matter which had already been disposed of by this Legislature and what was wanted was an extension of the powers which this Legislature exercised in regard to centrally administered areas to the provinces. But this Bill concerns itself with amending the Indian Merchant Shipping Act in so far as the sections of that Act have any bearing on the passage of pilgrims to and from the Hedjaz. In a matter like this where it is a question of amending about 15 clauses one can easily visualise that there will have to be a lot of time employed in discussing these subjects and if there has been no closure during these two and a half days, it is because we had to discuss a number of clauses one after another and no particular clause took up more time than was absolutely necessary. But in the case of the other Bill we had to discuss one clause for about half a day. That never happened in respect of this Bill.

Coming to the main Bill, Sir, look at the fate of the Hajis when they start on their pilgrimage. It is a matter of common knowledge that most of these pilgrims when they leave their homes travel third class on the railway; and, considering the amenities which the railways at present provide for third class passengers, one can easily conceive the great hardships which these people have to endure specially when they go with their families and children to the port of embarkation. They arrive at Bombay some how or other, and there they are treated to a mild *lathi* charge. They bear the *lathi* charge, and when they get into the steamer, they find that they are provided with a berth which is not more than 2 feet 8 inches in width—hardly enough accommodation for a grave. That is their second shock, and then when evening comes on and they want to cook their own food, they are not allowed to do so. They are told by the shipping company that they cannot get food prepared in their own way. So they are forced to have the food given by the steamer company. While on their

journey on the sea, there is sea sickness ordinarily among 50 per cent. of the passengers and one can judge to what hardship such people would be exposed when they are compelled to take food which is not to their liking. Sir, I forgot to mention that, before they embark, they have to get themselves inoculated, vaccinated against small-pox, inoculated against cholera. I do not believe that they are to be inoculated against plague. (*An Honourable Member*: "Yes.") They are to be inoculated against plague, as my Honourable friend says. Then, on the way, they are quarantined at Kameran to make sure that they are free from infectious diseases. (*An Honourable Member*: "There is no quarantine now.") Sir, if there is no quarantine at Kameran, I think that is the only good feature of this Bill. Then they disembark at Jeddah and go to Mecca and Medina to perform their religious functions. They come back to embark again for their homeward voyage and they find to their utter amazement that there is no steamer to carry them. They are thus stranded at Jeddah and, after some time, they go on board ship and there again they have to take compulsory food. Fortunately there is no lathi charge at Jeddah as they had in Bombay. Then the pilgrim disembarks at Bombay and goes home by third class undergoing the same difficulties. So one can easily imagine, if a pilgrim once goes to Mecca on his pilgrimage, what hardship he has to endure both on the outward and inward journeys, and I ask, would he have the courage to undertake a similar journey, even though he may be a very rich person or can any one expect that he would advise any other person in whom he is in the least interested to undertake this journey? Am I to understand, therefore, Sir, that the hardships which a pilgrim has to undergo under this amended Bill are meant to confer on him additional spiritual benefit, and I am only sorry, Sir, that the Government have not done the best they could in this respect.

**Mr. K. P. Thampan** (West Coast and Nilgiris: Non-Muhammadan Rural): Sir, the question may now be put.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Chair accepts the closure. The question is:

"That the question be now put."

The Assembly divided:

#### AYES—34

Abdul Hye, Khan Bahadur Abul  
Hasnat Muhammad.  
Acott, Mr. A. S. V.  
Ahmad Nawaz Khan, Major Nawab.  
Allah Baksh Khan Tiwana, Khan  
Bahadur Malik.  
Amir Hussain, Khan Bahadur Saiyid  
Anwar-ul-Azim, Mr. Muhammad.  
Bajpai, Mr. G. S.  
Clow, Mr. A. G.  
Dalal, Dr. R. D.  
Dutt, Mr. Amar Nath.  
Dutt, Mr. G. S.  
Dutt, Mr. P. C.  
Ghuznavi, Mr. A. H.  
Gidney, Lieut.-Colonel Sir Henry.  
Hezlett, Mr. J.  
Jawahar Singh, Sardar Bahadur  
Sardar.

Joshi, Mr. N. M.  
Lal Chand, Hony. Captain Rao  
Bahadur Chaudhri.  
Leach, Mr. A. G.  
Megaw, Major General Sir John.  
Metcalf, Mr. H. A. F.  
Morgan, Mr. G.  
Mukherjee, Rai Bahadur S. C.  
Raghubir Singh, Kunwar.  
Raisman, Mr. A.  
Rau, Mr. P. R.  
Ryan, Sir Thomas.  
Seaman, Mr. C. K.  
Sher Muhammad Khan Gakhar,  
Captain.  
Singh, Mr. Pradyumna Prashad.  
Thampan, Mr. K. P.  
Tottenham, Mr. G. R. F.  
Trivedi, Mr. C. M.  
Vachha, Khan Bahadur J. B.



## NOES—30

Abdul Matin Chaudhury, Mr.  
 Azhar Ali, Mr. Muhammad.  
 Biswas, Mr. C. C.  
 Chitoy, Mr. Rahimtoola M.  
 Das, Mr. B.  
 Ibrahim Ali Khan, Lieut. Nawab  
 Muhammad.  
 Ismail Ali Khan, Kunwar Hajee.  
 Jadhav, Mr. B. V.  
 Jha, Pandit Ram Krishna.  
 Jog, Mr. S. G.  
 Kyaw Myint, U  
 Liladhar Chaudhury, Seth.  
 Misra, Mr. B. N.  
 Mitra, Mr. S. C.  
 Mudaliar, Diwan Bahadur A. Rama-  
 swami.

Murtuza Saheb Bahadur, Maulvi  
 Sayyid.  
 Pandian, Mr. B. Rajaram.  
 Patil, Rao Bahadur B. L.  
 Rao, Mr. M. N.  
 Rustogi, Mr. Badri Lal.  
 Sarada, Diwan Bahadur Harbilas  
 Shafee Daoodi, Maulvi Muhammad.  
 Singh, Mr. Gaya Prasad.  
 Sohan Singh, Sirdar.  
 Suhrawardy, Sir Abdulla-al-Māmūn.  
 Uppi Saheb Bahadur, Mr.  
 Wajihuddin, Khan Bahadur Haji.  
 Yakub, Sir Muhammad.  
 Yamin Khan, Mr. Muhammad.  
 Ziauddin Ahmad, Dr.

The motion was adopted.

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain** (Member for Education, Health and Lands): Sir, we have, after a lengthy 1 P.M. debate, arrived at the end. I am very glad that on the floor of this House all that could possibly have been said criticising the Bill has been said once, twice and many times over. There are certain things which emerge as approved not only by a majority of the House, but practically unanimously, and such agreement it is difficult to find in support of a measure of reform. The main point urged against this measure is that it does not include all the recommendations made by the Haj Inquiry Committee, and, therefore, is defective. I think I explained yesterday that in this Bill there are only those measures which relate to pilgrim traffic and suitable for inclusion in a statute, while other recommendations are such as come in under rules and, therefore, are not stated in the Bill. Then, certain points were raised, points which, I think, it is necessary for me to mention and reply to, so that there may be no misapprehension on those points. The first one was that the Haj Inquiry Committee's report is not a document which is in itself a good and sound document: secondly, that it has not been duly considered by Government and its recommendations have not been accepted by the Government; thirdly, that a large number of recommendations of this Inquiry Committee have been rejected by Government. And, finally, that the reform about food is such as not to be a reform, but a most serious and objectionable innovation likely to do harm instead of good to the people for whom it is intended. May I dispose of the last point first, because we have heard such a lot about food that it has become quite nauseating.

May I remind Honourable Members of this House that there are such institutions amongst Mussalmans in India as are called *Urs Shareef*, that is to say, the anniversaries of great saints—such as the Ajmer Shareef, the Pak Patan Shareef and in many other places and to which functions people, not from one province, but from many provinces, come—not only from Indian provinces, but also from across the border, both from the side of Baluchistan as well as Afghanistan. Is it alleged that at *Urs* individual votaries try and cook for themselves? Is it alleged that the institution of *langar* is not known to Muslims? It is surprising to me that in a spirit of controversy simple facts, well-known to all of us, are put aside.

Until we develop a spirit of calm consideration, even when we are discussing points in dispute, there is absolutely no hope of our ever getting on to the stage where we can see both sides of the question. (Interruption.) The Honourable Member from Madras may not possess many shrines: if he has not, then I pity him and trust that he will get some soon.

**An Honourable Member:** They come to Ajmer.

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** They do? I trust he will come to the *langars*. . . . .

**Sir Muhammad Yakub** (Rohilkund and Kumaon Divisions: Muhammadan Rural). Is this supply of cooked food compulsory for any *Urs*? ,

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** It is not a question of whether it is compulsory or not. There is the *langar*; and there any poor man who does not avail himself of the *langar*, whether that *langar* is of Hindus, or of Muslims or of any other community?

**Sir Muhammad Yakub:** That is only for the beggars.

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** There, again, the Honourable Member considers that there are but two classes, the well-to-do and the beggars. He is wrong. I myself have visited the Pak Patan Shareef and enjoyed the hospitality at the *Urs* of Pak Patan Shareef and I do not think the Honourable Member from the United Provinces would put me in the class of beggars. Similarly, I know for certain that very many of the middle class people, who go to these *Urses*, do take advantage of the hospitality of these *langars*. It is wrong to say that these *langars* are intended only for beggars. As a matter of fact the institution of *langar*, if I may say so, is an indication of Islamic culture. Therefore, on the question of food, I think, I have said enough to show that it is not right to say that the reform is going to be very revolutionary. Nothing of the kind. Again, any one, who is familiar with those parts of India which are preponderatingly Muslim, understands that the shops of "*Tabbakh*", that is to say, the sellers of cooked food, for instance, in Peshawar, are very largely patronised. In fact, there are very few people barring the rich who cook their food at home, and they generally indent upon these shops for even their daily meals. As for travellers, they invariably go to these shops. There, again, to say that cooked food for others is something revolutionary, something new, is not right.

May I, Sir, remind the House whether they contemplate as a self-governing India in charge of their army making arrangements for the rations of their army, each soldier cooking for himself, and members recruited from Bengal, from United Provinces having a separate kitchen made for them? They may contemplate that, Sir, but if they do adopt it, they will make the cooking arrangements for their respective armies much more expensive than at present. People contemplate common mess for all Indians when they are in the national army . . . . .

**Mr. Muhammad Azhar Ali:** May I ask . . . . .

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** You cannot ask anything at this stage. It is getting too late. I cannot but regret that so much stress was laid on this aspect of the legislation. I am free to admit that it is a reform, but I cannot admit that it is such a dangerous reform that after careful consideration one should not have undertaken. When I say careful consideration, I have again in mind the mentality of those Members of the Haj Inquiry Committee and of the Select Committee and further of the Standing Haj Committee, where all orthodox people, extremely orthodox people, were in favour of this reform; and it is right that never was a discordant note struck by any Member right up till after the proceedings of the Select Committee. I think the point taken by the Honourable Member from Bihar, Mr. Shafee Daoodi, was correct, and those who are opposing the Bill, one or two Members, no doubt are doing their duty, as the duty of all oppositionists must be, to critically examine every measure in the handling of which they have not had a share. There is no harm in it. I dare say if they had the same opportunities as the Members of the Haj Inquiry Committee of going over the whole of India, examining witnesses and then forming their opinions, their opinions would have been exactly the same as those of the Haj Inquiry Committee. I cannot help stressing the point that when I read the names of the members who served on the Haj Inquiry Committee and, after that, on the Standing Haj Committee, and, after that, on the Select Committee, it is such a list that Government could not but have accepted the advice given by these Committees. I say, again, Sir, that I do not want to belittle the critical work that has been done in connection with this Bill by two Members, one from United Provinces, Khan Bahadur Haji Wajihuddin, who, with the best of intentions, representing the extremely conservative section, did very properly express himself advising caution. I have tried to appreciate the point of view of the Honourable Member from Bihar, Mr. Maswood Ahmad, who ordinarily possesses liberal and progressive views. Therefore, to me it was a matter of some surprise,—I won't say of disappointment,—when in a spirit of controversy he took up the cudgels of a critic, and wanted to condemn the whole thing root and branch. Because of this attitude, a great deal of force that one might have otherwise detected in his criticism has escaped notice.

Lastly, it was said that this is a religious matter. Well, this is a religious matter only in the sense that this is an attempt to promote the convenience of those who undertake pilgrimage, and I trust the measure does attain a certain amount of success in achieving that object.

It has been said how will these measures be worked. I can assure the House that when framing rules and regulations, Government will take all necessary steps to consult the Port Haj Committees with a view to making suitable rules and regulations and, at the same time, bear in mind what has been said by Mr. Morgan that in making rules and regulations such rules are not framed as may be prejudicial to the interests of the shipping agents. As I said yesterday, Government are there to see fairplay between the pilgrims and the shipping agents. I have every hope that now that the heat of controversy is over . . . . .

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): If it suits the convenience of the Honourable Member, he may resume his speech after Lunch.

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** I will take less than five minutes.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): But taking a division and all that will take some time.

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** As you like, Sir.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Honourable Member may resume his speech after Lunch, after which the question can be put and division taken.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) in the Chair.

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** I was about to conclude my speech when the House rose for Lunch. The portion of my speech that I had yet to make was a reference to this unfortunate incident that at this late stage of the third reading, after a protracted debate, those Members who were strong supporters of the Bill, some of them having been the authors of the Haj Inquiry Committee Report, did not get an opportunity of speaking, because the House carried the motion for closure.

**Dr. Ziauddin Ahmad** (United Provinces Southern Divisions: Muhammadan Rural): The Government, not the House.

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** That was very unfortunate, because as the Government have brought forward this measure solely in pursuance of the Haj Inquiry Committee's report, it was but natural that those who were responsible for that report should be the supporters of this measure.

**Maulvi Muhammad Shafee Daoodi:** Would the Honourable Member in charge share his time with Syed Murtuza Sahib as he wants to say a few important words on this question.

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** I would not for a moment object to sharing it with him, because I feel certain that he could, as a leading member of the Haj Inquiry and Select Committee, put forward his views with authority. I am entirely in the hands of the Chair and have no objection to such a thing being done if you, Sir, wish to allow it.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Rules and Standing Orders governing procedure are intended to safeguard the interests of the House and not the interest of the Chair or of any particular section. The Chair has repeatedly expressed that in the matter of closure, when the Chair accepts the closure, it only gives an opportunity to the House to decide whether it will continue the debate or not. It is

[Mr. President.]

the function of the Chair always to safeguard the interests of minorities (Hear, hear) and rules are devised to the best of human ability to safeguard the interests of minorities. But, as a result of the experience in the British House of Commons, it was realised that in very many cases majorities require to be protected against the tyranny of minorities. From its study of Parliamentary procedure, the Chair has learnt that the closure motion is one of those articles of procedure which are distinctly meant to safeguard the majority against the tyranny of the minority. In a House of, say, 150 Members, if ten Members want to block the business of the House and the other 140 want to proceed with the business, the majority of 140 have no remedy against the minority of 10, unless there is a procedure like the closure motion. In this particular case, when the Division Bell ceased, the Chair again wanted to give an opportunity to the House and the Chair declared that the "Noes" have it and, in spite of that, a division was forced. It will be very serious departure from well established practice and it will lead to serious complications in the future if by any precedent the Chair departs from the strict adherence to the rules of closure and allows any other Honourable Member except the Government Member to take part.

**Mr. Muhammad Yamin Khan** (Agra Division: Muhammadan Rural): With due respect to what you have said, I want your indulgence to make a few observations upon the procedure of acceptance of the closure.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Chair is sorry the House cannot have this discussion now. Since a request was made to the Chair to make an exemption, the Chair thought it worth while to explain its position, and what the implication of a closure motion was. The Chair cannot allow a discussion on the ethics of the motion.

**Dr. Ziauddin Ahmad**: When the next Bill comes on, we will remember the arguments.

**Mr. Muhammad Yamin Khan**: If the Chair does not want to exercise its discretion as to when a closure motion should be accepted and when it should not be accepted, we are going to move the closure for every Government Bill after the first speech and we will leave it to the House to decide.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Honourable Members have got perfect liberty to apply the closure motion at any stage they like, but it is for the Chair to decide whether the closure motion will be accepted or not and the Chair, in deciding whether a closure motion will be accepted or not, always takes into consideration the fact whether there has been a fair debate on the question before the House. Now, in this particular case, the Chair accepted the closure for this reason. If the discussion on the third reading was the first discussion, the Chair could not have under any circumstances accepted the closure motion because only four Honourable Members had taken part in the debate, but the third reading of a Bill is a continuation of the

process of the discussion of the measure. This measure has been discussed for 2½ days and, in deciding whether there has been a fair debate or not, the Chair has to take into consideration not merely the number of speakers who took part in the third reading, but the number of speakers who took part in the entire debate. As a matter of fact, the idea of a third reading in a Bill is this. When a Bill is materially amended in material particulars during the consideration stage, then the third reading furnishes an opportunity for Honourable Members to give their comments at that stage. The Chair will, therefore, have also to take into consideration, when a closure motion is applied on the third reading, whether there has been any material change, in the amendments carried through the consideration stage. Now, in this particular case, not a single material amendment was carried and since the discussion went on for 2½ days, the Chair thought that there had been a fair debate and, therefore, the Chair accepted the closure.

**Mr. Muhammad Yamin Khan:** May I ask one point from the Chair, because it is not clear to me. I want to know whether the Chair thinks that, in accepting the closure on the third reading, the Chair should not take into consideration the fact that certain speeches have been made only in opposition to the Bill and no speech has been made in support of the Bill. In this case the criterion that the debate should be so conducted that both sides should be heard will not apply, in order to guide the Chair whether the closure motion should be accepted or not.

**Dr. Ziauddin Ahmad:** So an Honourable gentleman in his speech said that support of this particular Bill is sufficient to send him to Hell (Valad Dālin) and it was for other Members to review the position. The closure to economise time is a point which we could not follow in the case of every Bill.

**Mr. S. O. Mitra** (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Is it your ruling that we can make speeches only when there are material alterations during the consideration stage?

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): No. what the Chair meant was that the Chair takes that point into consideration in deciding whether it will accept the closure motion or not.

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** I assure the House that Government are under very great obligation to the members of the Haj Inquiry Committee and to the members of the Standing Haj Committee and, further, the members of the Select Committee and have had wholehearted support from these three institutions and as you, Sir, very rightly said, it was only a minority of one or two, though a very vociferous minority, that made the House take so long over the Bill; otherwise, the business might have been transacted in less than half the time. As to the fact that during the consideration stage, some Honourable Members did not get the opportunity of speaking, I do not think, in view of what has been said in the speeches made in earlier stages of the debate, this can detract from the value of the support they have given to the measure. I am sure the Bill will prove in course of time a great blessing to all those who will be proceeding to the Haj. It is our intention to make the Haj pilgrimage as comfortable as possible without making it too expensive for the people to undertake, and that is a question of

[Khan Bahadur Mian Sir Fazl-i-Husain.]

principle which has been very rightly enunciated by the Haj Inquiry Committee and to which the Government adhere. There is nothing for me, Sir, now to do except to thank the Members of the Select Committee and others who took part in the debate once more and assure them that the Government, in framing the rules and regulations, will stand by the principle which has been enunciated during the course of the debate. Now one word, Sir, with reference to certain unfortunate observations hastily and thoughtlessly made no doubt by one or two speakers during the course of this debate as to what was said by the Honourable Member in charge of this Bill. When speaking on various motions, he has given expression to the views of the Department and not to his personal views. Further, I may be permitted to add that the language in which he has given expression to the views of the Department, having listened to it myself, was absolutely unexceptionable, and I myself could not have used better or more suitable language in expressing those views. It is, therefore, a pity that in the heat of controversy, undeserved and unjust reflections should have been made, however indirectly it may be, on those who took part in this debate and performed their task to the best of their ability. I do hope, Sir, that the House will pass this measure with as much unanimity as is possible, and which the heat of controversy will allow.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That the Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes, as reported by the Select Committee, and, as amended, be passed."

The Assembly divided:

AYES—49.

Abdul Hye, Khan Bahadur Abul  
Hasnat Muhammad.  
Acott, Mr. A. S. V.  
Ahmad Nawaz Khan, Major Nawab.  
Allah Baksh Khan Tiwana, Khan  
Bahadur Malik.  
Amir Hussain, Khan Bahadur Saiyid.  
Anwar-ul-Azim, Mr. Muhammad.  
Bajpai, Mr. G. S.  
Bhore, The Honourable Sir Joseph.  
Clow, Mr. A. G.  
Dalal, Dr. R. D.  
Das, Mr. B.  
Dutt, Mr. G. S.  
Dutt, Mr. P. C.  
Fox, Mr. H. B.  
Ghuznavi, Mr. A. H.  
Gidney, Lieut.-Colonel Sir Henry.  
Haig, The Honourable Sir Harry.  
Hezlett, Mr. J.  
Jadhav, Mr. B. V.  
James, Mr. F. E.  
Jawahar Singh, Sardar Bahadur  
Sardar.  
Jehangir, Sir Cowasji.  
Krishnamachariar, Raja Bahadur G.  
Lal Chand, Hony. Captain Rao  
Bahadur Chaudhri.

Leach, Mr. A. G.  
Megaw, Major General Sir John.  
Metcalf, Mr. H. A. F.  
Misra, Mr. B. N.  
Mitchell, Mr. D. G.  
Mitter, The Honourable Sir  
Brojendra.  
Muazzam Sahib Bahadur, Mr.  
Muhammad.  
Mujumdar, Sardar G. N.  
Mukherjee, Rai Bahadur S. C.  
Noyce, The Honourable Sir Frank.  
Raghubir Singh, Kunwar.  
Raisman, Mr. A.  
Rajah, Rao Bahadur M. C.  
Rastogi, Mr. Badri Lal.  
Rau, Mr. P. R.  
Ryan, Sir Thomas.  
Schuster, The Honourable Sir George.  
Scott, Mr. J. Ramsay.  
Seaman, Mr. C. K.  
Shafee Daoodi, Maulvi Muhammad.  
Sher Muhammad Khan Gakhar  
Captain.  
Singh, Mr. Pradyumna Prashad.  
Tottenham, Mr. G. R. F.  
Trivedi, Mr. C. M.  
Vachha, Khan Bahadur J. B.

## NOES—12.

Abdul Matin Chaudhury, Mr.  
 Azhar Ali, Mr. Muhammad.  
 Ibrahim Ali Khan, Lieut. Nawab  
 Muhammad.  
 Jha, Pandit Ram Krishna.  
 Kyaw Myint, U  
 Maswood Ahmad, Mr. M.

Morgan, Mr. G.  
 Pandian, Mr. B. Rajaram.  
 Rafiuddin Ahmad, Khan Bahadur  
 Maulvi.  
 Thampan, Mr. K. P.  
 Uppi Saheb Bahadur, Mr.  
 Wajihuddin, Khan Bahadur Haji.

The motion was adopted.

## THE INDIAN INCOME-TAX (AMENDMENT) BILL.

## AMENDMENT OF SECTION 4.

**The Honourable Sir George Schuster** (Finance Member): Sir, I beg to move:

"That the Bill further to amend the Indian Income-tax Act, 1922, for a certain purpose (*Amendment of Section 4*), as reported by the Select Committee, be taken into consideration."

I shall endeavour to be brief in my remarks in support of this motion. Indeed, I find it very difficult to visualise what the case of the opposition to this Bill is, and, therefore, Sir, I shall have to wait till I hear what my opponents say in order to put before the House my reasons for objecting to that opposition. The House has had before it now for some time the report of the Select Committee and I would only like very shortly to call attention to the principal alterations in the Bill as it was originally submitted which have been made by the Select Committee.

In the first place, the Select Committee has accepted the recommendation which was made in the course of the debate by my Honourable friend, Mr. Biswas, that the word "income" ought to be added to the words "profits and gains". That is a minor alteration. Then there are two important alterations involved in the two provisos to sub-section (c) of section 2. The first proviso gives effect to the intention that so far as this Act is concerned, bygones will be bygones. There should be no attempt to work backwards to accumulations of profits or income which have escaped income-tax in the past. I think that, by accepting that proviso, Government have gone a long way to meet any possible objections that might be made to this measure. If there is any man who will be adversely affected by this measure, that can only apply to acts committed in the future. If he accumulates income abroad after this measure is passed, as I hope it will be, then he does so with his eyes open. He knows exactly what to expect. The second proviso is one which, I may say, I regard with a much more doubtful eye. The proviso says that where an accumulation of profits earned over a number of years is brought back into the country in one year, it shall not be treated as income for that single year, but shall be divided up among the years during which it was earned. The object of that proviso is to guard an individual who may bring income back from abroad against the possibility that by bringing back, say, 10 years' income in one year he may find himself subjected to very heavy rates of super-tax. I would call attention of Honourable Members to the point that those members of the Select Committee who supported this proviso have confined their attention to possible payers of



[Sir George Schuster.]

super-tax. Government members have all signed a minute of dissent to that particular recommendation, because we feel that if an individual does bring back the income of 10 years in one year, that is his own look-out. He knew perfectly well what the position was as regards his foreign income. He can easily escape from the alleged injustice of treating all that as the income of one year by bringing his income back as and when he earns it, and if he chooses to bring it back all in one year, that is his own look-out. But, as this particular proviso was recommended by a majority of the Select Committee, Government while dissenting from it, have not themselves put down any amendment for the purpose of doing away with that proviso. Those are the main points which were taken up in the Select Committee.

As regards the general object which we have in mind, Government's case remains the same as it always has been. I venture to submit that as to the essential purpose which lies behind our action in putting forward this Bill, there can really be no difference of opinion in this House. The essential purpose is to remove a privilege from a certain class of income, to remove an unnatural—I say deliberately unnatural—inducement to the export of capital from India for investment abroad which, under the existing law, does undoubtedly affect the position. I cannot imagine that there can be any individual in this House who would support the existing position which is, as I have so often repeated, that if individual A chooses to invest his money in foreign securities, he can draw the income from that without paying a penny of Indian income-tax, and if individual B, who lives next door to him and has perhaps greater belief in his own country, invests his money in Indian securities, he has to pay income-tax on everything that he earns. I cannot believe, as I have said, that there is a single man in this House who can stand for the maintenance of that position. ("Hear, hear" from Opposition Benches.) On the other hand, there are some who profess to see in this measure all sorts of possibilities of injustice. They profess the fear that companies will be penalised; companies, which, for legitimate purposes and because part of their business lies abroad, have to keep money abroad, will be penalised if at any time they wish to bring back certain of the reserves that they accumulated abroad for capital expenditure in this country. I have taken the opportunity to explain the position to many who have held those fears and I trust that I have been able to dispel the fears of any man who chooses to look at the matter in an unprejudiced way. But there are still some who think that there may be cases of which we have not yet thought and I suppose that that is the idea which influenced those members of the Select Committee who recommended that this measure should again be circulated for opinion. I shall have to deal with the particular issue involved in that proposal when an amendment supporting circulation is moved, if it is moved, when the time comes. But,

3 P.M. before it is moved, I wish to say this—that Government are just as anxious as any Honourable Member who may entertain those fears to avoid the operation of this measure leading to any injustice, to any unfair burden on those who are acting quite legitimately. The only object of the measure is to make those who live in India and invest their money abroad pay their fair share of Indian income-tax. But if there are cases,—and I can conceive of no possibility in which this could arise,—if there are cases in which it might act unfairly, Government would undoubtedly deal

with the position, and I am prepared to say this—that if the Honourable Members of this House recommend to Government that a Committee should be set up,—a Committee in whatever form they may like to recommend,—that a Committee should be set up to watch the operation of this Act and to make recommendations for amendment of it if any cases of real injustice are discovered, then that is a proposal which Government would at once take up. They will be only too glad to co-operate in action of that kind, and I am prepared to give a most positive undertaking that we would bring forward amending legislation if any injustice were discovered. But let me say now that I am quite convinced that nothing that we would regard as an injustice will be discovered, because, although this Act may be inconvenient to certain persons, I feel that it cannot be used in a way which would be unfair to legitimate interests. But I am always open to conviction,—I may be wrong,—and, in order to provide against all possibility of injustice, I am quite prepared to take the course to which I have just referred.

Now, Sir, there is one other point on which I wish to say something. I have dealt with matters to which the Select Committee's report has made reference. There is one particular matter to which no reference has been made, and that is the position of income earned from agriculture in countries outside India. It may be a surprise to some of the Honourable Members, and there are a good number of them who referred to this particular matter in previous debates on this matter, it may be a surprise to them to learn that there was no single unofficial member of the Select Committee who made any reference at all to this point in our discussions. I do not know what the unofficial members who are supposed to represent the interests of various parties were doing; but their silence was certainly significant. It was no part of Government's business to bring the matter forward, but I was surprised that nothing was said by any of the unofficial members. But though we did not bring it forward in the Select Committee, we have been giving a great deal of attention to it, and I notice that an amendment has been put down by one Honourable Member, Mr. Reddi, on this particular point. The amendment, as originally tabled by my Honourable friend, was for technical reasons I think,—that at least is the interpretation of Government,—ineffective, and I had planned to say in my speech on the measure today that if my Honourable friend wished any help from Government in making his amendment effective, I would be very glad to offer him such assistance as we could, because I should not have wished to take advantage of a technical point to defeat him. But just as I was coming to the House this afternoon, a new sheet of amendments was handed to me and I note that my Honourable friend has altered the wording of his amendment, and as far as I can see, it would now be effective. Now, Sir, I think the point with which Honourable Members who have taken up this matter are concerned is this, that the whole basis for the exemption of agricultural income from income-tax is that agricultural profits already pay land revenue, and agricultural income in the Indian Income-Tax Act is,—to put the matter shortly and not to use the exact words of the Act,—defined as income from land which has already paid land revenue or something like land revenue. I believe that my Honourable friends who are interested in this consider that it is unfair that similar income from Indian States which has already paid land revenue in Indian States should, if brought in to British India be subjected to British Indian income-tax. That indeed would be,—and I have come to this conclusion on reflection,—that

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would be certainly a form of double taxation which would fall particularly heavily on a particular class of investment. Now a difficult question which arises in this connection is that it is quite possible that changes as regards the position of Indian States under the Federation may have a very definite bearing on this particular question. It is quite possible that particular arrangements for relief against double taxation may be made. We maintain the position which we have always maintained that it would be difficult to make in normal circumstances an exception in the case of a particular class of income unless there were special arrangements in force for relief against double taxation. But what I am prepared to say is this that if this amendment is moved and if it is the view of the majority of the House that this special exemption should be made, Government would not stand in the way of it; and when I say the majority of the House, I mean this that Government are quite prepared to refrain from voting on this particular amendment. I want to put to the House the exact position. It will in a sense be introducing an anomaly, if this amendment is passed. On the other hand, I feel that there is a certain basis for that particular anomaly and that in fact it will not be quite so anomalous as might otherwise appear. That being so, we have come to the conclusion that we will ourselves stand back from that particular discussion. Now that I have explained the position, I leave it to the House to decide whether they would wish to treat this particular class of income specially. I may say that it will not,—and that is really one of my main reasons for taking this position,—it will not, we think, seriously affect the main purpose of the Bill. When we considered this measure, it was not that type of income which we had in mind. The people who live in British India and hold land in Indian States are not people who have adopted that course with the deliberate purpose of avoiding their fair burden of taxation.

Now, Sir, I do not wish to anticipate any debate that may take place on the motion for circulation if it is moved. I would only like to remind the House, before they take up that subject, of two points. One is that this measure has been before the country for about seven months. It was introduced at the beginning of September of last year. We have received opinions on it from a very large number of Chambers of Commerce, and everybody in the country, every association in the country, has had ample opportunity for considering the measure. I would further remind the House that when I moved for the reference of this Bill to a Select Committee some weeks ago, if any one had thought that this was a measure which ought to be circulated, that was the time to ask the House to take that course. The House, on the other hand, was ready to commit itself to reference to Select Committee and nothing has transpired since then.—and I say so with great confidence.—nothing has transpired since then to justify the House in changing its course and stultifying the action which it itself has taken. I would further,—though I do not wish to be personal in this matter.—I would further like to call the attention of the House to the fact that the Honourable Member who has put down this amendment for circulation was himself a member of the Select Committee on this Bill and himself took such an extraordinary interest in this measure that he never attended a single one of the meetings of the Committee. Now, Sir, I can understand that

my Honourable friend having absented himself from the discussions may have found out the significance of this measure and is anxious for further time in which to inform himself about it; but, Sir, if we are to wait on the convenience of Honourable Members of that kind, and if the business of this House is to be treated in that sort of way, then, Sir, we shall wait till doomsday and we shall never get a measure passed. I think it is justifiable for Members of Government who have tried to get this measure properly considered, for Members of Government, who at great inconvenience are always ready to give their time at any hour for the convenience of the Members of Select Committee, it is quite fair for us to protest when we find that these Honourable Members will not take the trouble to attend meetings of Select Committees and then intervene with a dilatory motion of this kind. That is all that I have to say. I have no doubt that in further debate on this subject we shall have paraded before us a number of possible hard cases and the Government will be represented as a predatory force ready to pounce down and seize the hard-earned property of deserving people. But I would ask the House to look at the matter in another way. It is not a case of Government attacking a particular class for its own benefit. It is a case of the Government seeking to distribute the burdens of taxation fairly. We feel that it is not fair that a particular class of income should be exempt, and, if we succeed in getting a fair levy on that particular class of income, then, Sir, we shall not use the money for our own nefarious purpose, but we shall use it for relieving the burdens of taxation on those who have not been able to escape any part of their fair share and who are already overburdened.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Motion moved:

"That the Bill further to amend the Indian Income-tax Act, 1922, for a certain purpose (*Amendment of Section 4*), as reported by the Select Committee, be taken into consideration."

**Mr. B. V. Jadhav** (Bombay Central Division: Non-Muhammadan Rural): Sir, I rise to move:

"That the Bill, as reported by the Select Committee, be circulated for the purpose of eliciting opinion thereon by August 31st, 1933."

In the first place, I must say that I entirely agree with the principle of the Bill. I am not in favour of the capitalists. I feel that they are despoiling the masses and are profiteering at their cost, and, therefore, the burden of taxation should be placed on the shoulders that are able to bear it. Also at the same time, Sir, I am moving this amendment, because I feel that sufficient publicity has not been given to this measure. This measure, as the Honourable the Finance Member states, is intended to tax those who are sending their capital abroad. If this Bill was to affect only those who are sending their capital abroad, I would not have anything to say in favour of this motion for circulation. But, Sir, the wording of the Act is "bringing into British India the profits earned in other places". As everybody knows, Indians have gone overseas for trade and commerce. Sindhi merchants have gone to the West Coast of Europe and other places in Egypt and Africa; Kathiawaris and Gujaratis have done the same in East and South Africa; from Madras the Chettiyars have gone to the East, and all of them are carrying on

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their trade there. All these people are not very big capitalists. They are poor people who have gone there in search of bread and have earned there something and they want to bring....

**The Honourable Sir George Schuster:** Sir, may I point out to the House, before my Honourable friend harrows its feelings any further, that all these people will be quite unaffected by this measure as long as they are resident out of India. As long as they earn profits out of India, they are quite unaffected by this measure? It is only the income received in India by residents in British India which is affected.

**Mr. B. V. Jadhav:** That is true. These people will have to come back too. They are not banished for life and, as soon as they come back or as soon as they receive money from their offices overseas, their income will be taxed.

**The Honourable Sir George Schuster:** No, Sir. That is not the position. Their income will have been earned at a time when they were not assessable to British Indian income-tax. It does not matter when they bring it back. As it was not earned at the time when it was not assessable, it will not be assessed when they come back to British India.

**Sir Cowasji Jehangir** (Bombay City: Non-Muhammadan Urban): Sir, may I point out to my Honourable friend that there are a good number of people living in India trading with countries outside India who bring in moneys into India for purposes of trade....

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Honourable Member is importing an entirely new point on which he would have ample opportunity to discuss when he gets his turn.

**Sir Cowasji Jehangir:** Sir, so also will the Honourable the Finance Member have ample opportunity to give his answer.

**Mr. C. S. Ranga Iyer** (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): On a point of order, Sir. I should like to know whether it is proper for another Honourable Member who is not the speaker himself to put questions to the Government when the Government are not in possession of the floor of the House? The Finance Member, I think, was interrupting in a parliamentary manner the speaker, but is it the proper form on the part of another Honourable Member to start putting questions to the Government at this stage?

**Mr. B. V. Jadhav:** Sir, whatever the intention of Government may be, the wording of the Act will be the guiding principle and people, bringing their profits or their capital overseas, will, I am afraid, be liable to pay income-tax according to the terms of the new legislation. Then there is another thing. The mercantile classes in the various centres generally come from Indian States, and Indian States, for the purposes of this Act, are foreign territories. People have got offices in both places in British India and in Indian States, and at present they have been treating the offices in British India as their Head Offices and their offices in the Indian States as sub-offices. But if the provisions of this Act are

strictly brought into operation, then these persons will have to pay income-tax on income that they have earned in Indian States, and, therefore, the chances are that the capital from British India might be diverted to the Indian States and their chief offices might be transferred from British India. That is one of the dangers. We want to know what the effect of the legislation will be on the subjects of the Indian States who are carrying on trade throughout the whole of British India. Their opinion has not been consulted, and it is very necessary that they ought to be given proper opportunity of saying what they have to say. The time that is asked in my motion is not a very lengthy time,—up till the end of August this year,—that is merely three months, and I think three months' time is quite sufficient for this purpose, and, therefore, Sir, I move that my amendment be taken into consideration.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Amendment moved:

"That the Bill, as reported by the Select Committee, be circulated for the purpose of eliciting opinion thereon by August 31st, 1933."

The discussion will now proceed on the amendment and also on the original motion. When the question is put, the amendment will first be put to the vote.

**Sir Cowasji Jehangir:** Mr. President, it is rather difficult to discuss the whole subject in one speech, and I see that there are other amendments down on the agenda on which it will be more appropriate to answer some of my Honourable friend, the Finance Member's criticisms; and, therefore, I do not propose to make an exhaustive speech just now on the whole Bill. There is another amendment which goes to the very core of the subject and I think it will be more appropriate to deal with my Honourable friend, the Finance Member's remarks and any remarks that may be made hereafter on that amendment. . . . .

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Which one?

**Sir Cowasji Jehangir:** It is an amendment in the name of Mr. Patil that sub-clause (b) of clause 2 of the Bill be omitted. On that amendment I think the real discussion will take place and, therefore, on that understanding I desire to confine my remarks strictly to the amendment moved by Mr. Jadhav. I think it is necessary that this Honourable House should know the history of this Bill. I did allude to the history of this Bill when my Honourable friend moved for the first reading, but even at the risk of being told that I am repeating what I said before, I will, with your indulgence, Sir, and the indulgence of the House, give this House the history of this measure as I know it. This is really a Bill with one clause. It seeks to make assessable to income-tax all incomes earned abroad which are brought into India. That is the main principle of the Bill. In 1921, a Bill was introduced into this House which became the Income-tax Act of 1922. In that Bill there was a clause which had more or less the same effect as sub-clause (b) of clause 2 of this Bill. That Bill was circulated for opinion and strong objection was taken to this clause by associations and by individuals and so strong was the opposition that the Finance Member of the day agreed to so modify the Bill that the

[Sir Cowasji Jehangir.]

principle now sought to be introduced was deleted from the Bill of 1922; and the Select Committee, in recommending its deletion, had to admit that they were forced into the position on account of the arguments put forward, not by Members of this House, but in the opinions that were obtained through circulation.

Coming now to more recent history, last year, the House recollects, the Finance Member, that is, the present Honourable the Finance Member, brought forward a Bill which was also circulated for opinion, and one of the objections raised to that Bill was that it had a discriminatory effect. It discriminated between Indians and Europeans, and so strong was the objection that—let it be said to the credit of the Honourable the Finance Member—he met the objection by coming forward in this House at the very first reading and saying that he would so alter the Bill in the Select Committee that the objection raised with regard to discrimination would no longer hold good; and it was due, I may say, to that undertaking that the Finance Member gave last year that he got the few votes that he did on that occasion; and if he had not given that undertaking, I venture to suggest that the margin of defeat would have been a much larger one than it really was. This year, my Honourable friend brings in the Bill which we are now discussing which goes back to the same subject, but in a different form; and I admit the validity of his argument that we ought to or might have considered the question of circulation at the first reading; and I will give you, Mr. President, the reason why I agreed and voted practically by my silence—there was no division on the question—to allowing this Bill to go to Select Committee. I was really hoping that in Select Committee—and I was led to that hope by the speech of my Honourable friend, the Finance Member—that in the Select Committee he would allow or he would agree to so amending the Bill that this most objectionable principle would be deleted. That was not done. . . . .

**The Honourable Sir George Schuster:** May I interrupt my Honourable friend? If I recollect aright, he discovered this brilliant idea of discrimination as a possible objection to the Bill long after the debate in this House. He never mentioned it in his speech to the House, and I certainly never gave any undertaking about it at all.

**Sir Cowasji Jehangir:** I am not alluding to any question of discrimination. I quite admit that I had not mentioned purposely in this Honourable House the question of discrimination, because I did not want to prejudice the case. I was sincerely, hoping, that he would so amend clause 2 (b) that we need not raise that question at all at this stage. But I am not dealing with that. I will deal with that question when we come to clause 2 (b), when the amendment is moved. I am now trying to show the House why no one rose to move that it be circulated at the first reading. Now, there is not the slightest doubt that this Bill has much more far-reaching effects than most Honourable Members imagine; and I would point out to this Honourable House that the suggestion that it be circulated for opinion was supported by a majority of the Committee. . . . .

**The Honourable Sir George Schuster:** No.

**Sir Cowasji Jehangir:** I will stand corrected if I am wrong. There were six members who signed the minute of dissent and there were four members who signed the report.

**The Honourable Sir George Schuster:** No: there were 12 members altogether.

**Sir Cowasji Jehangir:** Then half the members of the Select Committee signed the dissenting minute that it should be recirculated, and I think a good many of them were influenced by information they received and which came to their knowledge at a later stage. Sir, I really do not know why there is none of the European Group now in the House, but their representative also signed this minute of dissent which makes this suggestion, and I believe they have also come to know of the far-reaching effects of this measure. Sir, this does not affect only people who merely invest money outside British India; it affects people who live in this country and trade with countries outside British India. It affects people who have offices both in this country and in countries outside British India; it affects people living in this country, domiciled in this country, who have trade relations with Indian States. It affects the subjects of Indian States who live in British India, but trade with their own Native home, the Indian States, and there are thousands and thousands of people who live in Bombay, and who are subjects of Indian States, but we have not got their opinions before us. Mr. President, I will deal with the main principle of the Bill when the amendment is moved. Under these circumstances, I do think, that it is only fair that the House should have before it the opinions of all those whom this Bill will affect. I may be told that the principle in another form was circulated in 1922, it was circulated last year, and that should be good enough. I have got two answers to that argument. The first answer is that it was condemned wholeheartedly on both occasions by public opinion. My second answer is that although it may have been circulated in 1922 and last year, our memories are proverbially short, and unless those opinions are actually before you in black and white, you forget them, you are liable to miss them. The result has been that some of us have received telegrams from those interested in this Bill who most probably were not aware of the fact that such a Bill was before the Legislature, some of us have received telegrams asking us to pay a little more attention to this Bill than we have done. This would not have occurred if the Bill had been circulated for opinion. You might as well, Mr. President, tell me that a Bill had been circulated 10 years ago, and opinions had been obtained, and, however important the question may be, it was not now necessary to circulate it again. I do think, therefore, that the delay is not going to be of a very substantial character, and the Bill might well be circulated for opinion. Perhaps the Honourable the Finance Member will explain his great anxiety to push the Bill through during the last two or three days of a long and arduous Session. . . . .

**The Honourable Sir George Schuster:** Because I could not get it through before.



**Sir Cowasji Jehangir:** You might say that the Select Committee's Report was not ready. Was that any fault of ours, I ask? My Honourable friend asked us to sit after the day's work. Did we refuse to do so? Did we not attend every day that he himself appointed for a Select Committee? Was there a single day's delay due to any Member of the Select Committee? Was there any? No. All right. Then we are not responsible if my friend was not able to bring it up at an earlier date. If anybody is responsible,—it may not be the Finance Member,—it is certainly Government which is responsible. If this is the earliest date on which the Bill could be brought before the Legislature when, many, who may have been interested, are compelled to leave Delhi, then, I say, it is a much stronger argument for allowing it to be circulated and taking it up at the next Session. It is a bad precedent, Mr. President, to set, to have important Bills brought up very late in the Sessions (Applause from the Nationalist Benches); when every Honourable Member sitting behind my friend, the Finance Member, is made to be in his place by a strong Government whip,—nay, they are paid to be there,—while we are here to do a public duty, and if we do go away at the end of a long Session, nobody can complain. There are many of us here, if not all, who do make some sacrifice to be in this House. Sir, this practice of bringing up most important matters which have not the unanimous support of the House is becoming the rule, and not the exception. That is only one of the reasons; it is not the sole reason by any means, but it does add to my argument, and if this House desires to have the real objections to this Bill from the written word of all those who will be affected, I respectfully submit that Government ought to allow this Bill to be circulated, and I venture to suggest that a point of view will be placed before them by many trading in Madras of which they are not at present aware. I myself have not got with me the opinions expressed against this principle which was circulated to this House in 1922 and in 1932. Sir, the principle of the Bill that was brought in last year with the promise of an amendment by the Finance Member at the first reading was much more drastic than the present measure. But this Bill will affect large numbers who are not represented in this House. Sir, if after this the House considers that the matter is urgent and should not be delayed, well I shall take the decision of the House and place my arguments against the clause of the Bill to which I object when it comes before us, and at that time I will take the liberty, Mr. President, of answering some of my Honourable friend's remarks in support of the whole measure.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Does the Honourable Member, Mr. Jog, want to move his amendment No. 2 giving a different date?

**Mr. S. G. Jog** (Berar Representative): Yes.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Honourable Member might move that as an amendment to Mr. Jadhav's amendment, so that there will be no need of duplication of speeches on that.

**Mr. S. G. Jog:** I move:

"That the Bill, as reported by the Select Committee, be circulated for the purpose of eliciting opinion thereon (including those of overseas members of the British Empire trading with or making remittances to India) on or before the 31st December, 1933."

I thought that my amendment is different from the amendment moved by my Honourable friend, Mr. Jadhav. Still it is substantially the same as Mr. Jadhav's. Fortunately I do not come within the range of the attack of the Finance Member. I did not have the misfortune of working on this Select Committee and, therefore, the observations made by the Finance Member in the case of my friend, Mr. Jadhav, do not apply to me at all.

After the crushing defeat the Finance Member had lost time, I can certainly realise that he is afraid that he will receive the same fate this time also and it is but natural that he will say something on this Bill with some feeling. I for one would like to excuse him for that. That is not my purpose now. What we are concerned now with is whether this House has got sufficient material before it to decide whether the measure should be passed without sending it for opinion to the country. When the Select Committee report came, I thought I will be in possession of some opinions of those persons who would be adversely affected by this measure. I had no material before me to guide me to come to any conclusion on the merits of this Bill, except the Select Committee's report to which so many people have put in dissenting minutes. I find even the Government members have put in dissenting notes and it appears that nobody is satisfied with the Select Committee's report. It is no doubt true that the Finance Member is making a sort of innovation in this law of taxation. I mean he is changing the course we have followed for the last so many years. In a way the Bill before us appears to me to be of a revolutionary character. It is changing the course of events which was followed for so many years past. Situated as it is, one-third of India comes within the jurisdiction of Indian Native States and the rest is the so-called British India. There is no wall raised between the States and the British India, with the result that people trading in British India have also their offices in Native States, also people living in States have their business connections in British India. We do not know how far this measure will affect the interests of the people living in Indian States. I once put a question as to whether this measure had been circulated to the Rulers of Indian States whose subjects will be seriously affected, whose taxing capacity will be considerably affected. I know that in many States they are thinking of having their own taxation laws. They want to introduce an income-tax measure in the States and, if this double taxation goes on, the taxing capacity of the people in the Native States will be seriously jeopardised. Over and above that, there are persons who have invested money and who have got business connections overseas which will be vitally affected. It is absolutely necessary to ascertain as to what their views are on this matter. In short, this is a Bill which will have far-reaching effects. It is no doubt true that it appears to be of a patriotic nature and for the patriotic views expressed by the Honourable the Finance Member, I certainly congratulate him. I for one have not made up my mind as to how I will decide or vote upon this measure, but the conclusion I have come to is that it has not received that attention which it deserves. When the question of the Federation and all these Native States subjects coming into it is under consideration and when their interests will be vitally affected by this Bill, I think it is high time that the Federation, when it comes in, will help us to know the views of the representatives of the States and, therefore, it is absolutely necessary that this Bill should be postponed or at least an attempt

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should be made to get the opinions of all the interests affected by this measure. Let us consider things in a dispassionate way. I for one will not be affected by the Bill in the least. I have not got to pay super tax. I have no investments abroad. I can certainly see the feeling of my friend, Sir Cowasji Jehangir, and the tone in which he has spoken. I have no interests of that sort. I can take a more dispassionate view and, therefore, I submit that the Bill should be circulated in order to find out the opinion of the business people who will be affected. If it is really a good measure, the Finance Member need not be afraid of a defeat. It is only as a matter of satisfaction that I say that the interests concerned should be consulted and the Bill should be passed after due deliberation and consideration. With these words, I move my amendment.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Amendment moved:

"That the Bill, as reported by the Select Committee, be circulated for the purpose of eliciting opinion thereon (including those of overseas members of the British Empire trading with or making remittances to India) on or before the 31st December 1933."

**Mr. C. S. Ranga Iyer:** Sir, my friend, Mr. Jadhav, described capitalists as profiteers and said that he had no sympathy with the profiteering capitalists. I at any rate will not describe the capitalists as profiteers and I have every sympathy with the capitalist who makes legitimate profits. Mr. Jadhav said that sufficient publicity has not been given. I hope that will not lend itself to this paraphrase that sufficient duplicity has not been practised (Laughter), for surely the time has come when money invested abroad by people who have capital must be taxed when it comes in the shape of accumulated profit to this country. Otherwise, how can we develop the economic life of this country? It may be from the point of view of those who have increasing capital, a very good thing to invest that capital where it can thrive, but, as a Nationalist, with a sympathy for the development of Swadeshi, as one who deeply feels that our capitalists, unlike capitalists in other lands, want to make an undue profit by investing capital abroad, instead of taking risks by making those investments in this country itself, I shall give every support and every sympathy to every Finance Member, whether Sir George Schuster or his successors in the spacious days before us. (Hear, hear.) Sir, every inducement should be given to Indian capital for its investment in this country itself, and every artificial inducement must be taken away for the investment of capital abroad. Why, may I ask, is our industrial life so poor in spite of our vast industrial resources, our great industrial wealth, our thrifty population and the vast amount of cheap labour in this country? It is because our capital is shy. Our capitalists are more willing to invest their resources abroad than in this country itself: and unless and until we make up our mind, in the higher interests of the nation as time and again pointed out by people associated with the development of Swadeshi industries, unless and until we make up our mind that our capitalists should be given every attraction to develop the industrial life of this country, until such a thing comes, Sir, there can be no hope of increasing the sources of taxation in this country itself. Today we have been protesting—rather yesterday we did—that the taxable minimum

should have come so low as to affect the poor clerk getting less than Rs. 100 a month. I have always felt, as I said in this House and outside this House, that the limit of taxable capacity, so far as the poor people are concerned, has been reached. I am anxious that some way should be found so that the taxable minimum will not be the earning of Rs. 1,000 a year, but Rs. 2,000 a year as before. How are we going to reach that stage? If you do not want to tax the man who makes profits abroad and brings it into this country, if you do not want to tax him, you will have in the alternative to tax the poor. It is a tragedy that in this country the sources of taxation are not so widespread as the sources of a small country like the United Kingdom, with a population of 45 million only; that with the population that we have, that vast and colossal population, that ever increasing population, we have been actually taxing the innumerable poor, but that whenever a suggestion is made that the rich must be prepared to be taxed, every opposition is offered and proposals are made to circulate and re-circulate Bills so that public opinion may express itself. Why, may I ask, was not the Finance Bill thrown out, because the taxable minimum came so low as to tax people getting only Rs. 1,000 a year? It was not thrown out, because this is not the poor man's House: it is the rich man's House, and that is why when the rich men ought to be taxed, we are told: "Circulate, re-circulate" the Bill. The practice that is commended to us is: Promise, pause, prepare, postpone and end by letting things alone."

Sir Cowasji Jehangir waxed eloquent over the bringing of a matter of this kind at the fag end of the Session. It does not look as if we have not yet reached the end of this Session. I believe at any rate that some Honourable friends on our side do not want to hurry. They did not want to sit late hours into the night. Surely it is not for us who represent constituencies to come and complain: "We are nearing the end of the Session". Measures have got to be taken during the Session, whether in the beginning or at the end and it is not for us to dictate to the Government that you must bring forward this measure now and that measure some other time. Sir, we are going to have responsible Government. Which Opposition, may I ask, can dictate to the Government when you should bring forward a measure? Sir, I was witnessing an important meeting of the House of Commons which ended in an uproar, because the Opposition dictated that so and so should speak from the Government Benches. It was the President of the Board of Trade whom the Opposition did not want to hear—it wanted the Prime Minister, Mr. Ramsay Macdonald was then the Opposition leader.—Mr. Baldwin did not budge an inch. Honourable Members behind Prime Minister, Mr. Baldwin, rose to points of order: "When did the Opposition dictate to the Government that so and so should speak?" Similarly it is not for us to tell the Government when they should bring forward which measure. A Government, which wants to carry its own measures, a Government which wants to pass its own legislation, will certainly choose its own time. I can understand my friend, Sir Cowasji Jehangir, saying that they have waited for this convenient time, but who made it convenient for the Government? If we have no hold on the Opposition, if we cannot keep Opposition Members for important debates, surely it is not Government's

[Mr. C. S. Ranga Iyer.]

fault. We ought to improve our position. Sir, I knew in the old days of the Assembly Honourable Members stuck to the end. It gave no quarter to the Government, it asked for no quarter and I at any rate will not in a suppliant style tell the Government: "This is the end of the Session". If there are absentees on this side, no doubt the constituencies of theirs will note their absenteeism and deal with them as they ought to be dealt with, but so far as we are concerned, we are not to blame, when many on the Opposition Benches are not present when an important Bill like this is being taken up.

Sir, we were told, what about those affected? Whenever a controversial Bill is brought forward, there will be people affected. That does not matter so long as we are sure of our ground. It is not for us to say that there are people affected and we must consult their opinions. In every big measure that is brought forward, so long as there is an Opposition on this side of the House and the Opposition does its duty, that Opposition will oppose the Government; and you can every time tell the Government that as there are people affected outside, please circulate the Bill, and so on. Sir, that kind of argument of Sir Cowasji Jehangir does not appeal to me very much. I remember the late Leader on these Benches, Pandit Madan Mohan Malaviya, telling his followers on every important occasion that they should deem it as a great obligation, as a conscientious duty to be present in the Assembly till the very last day. Sir, when the late Leader of the Nationalist Party, who is leading a great movement outside, was in this House, he always felt that it was a duty for everyone to be present throughout the Session.

**Sir Muhammad Yakub** (Rohilkund and Kumaon Divisions: Muhammadan Rural): Does not the present Leader of the Opposition command the same confidence and respect of his Party?

**Mr. C. S. Ranga Iyer:** My friend, Sir Muhammad Yakub, is very humorous as he always has been, and when the Leader of my Party rises to speak, I am perfectly sure that if he feels that that question should be answered, he will answer it. I was only referring to the argument of my friend, Sir Cowasji Jehangir, about Honourable Members going away and Sir Hari Singh Gour's predecessor making a statement on that matter that every Member should stay on and do his duty. Sir, my friend, Sir Cowasji Jehangir, said that a particular sub-clause has got to be examined. Surely, if the sub-clause is objectionable, and I dare say he will be able to prove that it is objectionable from his point of view, and if we, after examination of that sub-clause, find that it is equally objectionable, then no doubt it will be easy for us to come together. At this stage I follow his good example of not going into the merits of the sub-clause; I would rather concentrate on the main issue, whether we should circulate the Bill or vote on it on the floor of this House.

On the question of circulation there ought to be no difference of opinion, especially when this Bill has been before the country for all these six months. Surely in six months we ought to be able to form an opinion. The section of opinion affected, if it is conscious and if it is informed of what is happening in the Legislature, surely should inform its representatives as to what they think of this measure: and I am sure when my

esteemed Leader, Sir Hari Singh Gour, rises to have his say, there will be abundant evidence that the affected parties have not been altogether silent, which incidentally will also be abundant proof that there is no need for circulation.

[At this stage Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) vacated the Chair which was occupied by Mr. Deputy President (Mr. Abdul Matin Chaudhury).]

There was the question of the Indians saving their incomes overseas and bringing them to this country. Nobody talked of the  
 4 P. M. Europeans taking away their profits and bringing them back if need arose, if their factories here were working at a loss. But these are controversial matters into which I will not plunge. I concentrate purely on the question of the circulation motion and that motion should be defeated. (Applause.)

**Several Honourable Members** The question may now be put.

**Raja Bahadur G. Krishnamachariar** (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Sir, I congratulate the Government on their latest recruit in my friend, Mr. Ranga Iyer. I have got the highest regard for the Honourable Sir George Schuster's powers of eloquence and persuasion. but even he could not have supported his case so nicely, so strongly and with such great eloquence and force as my Honourable friend, Mr. Ranga Iyer, has done. By the time he returns from the Joint Select Committee, I hope the Government will find him a pillar of strength and may he live long to support the present Government and the future Governments that may come into existence. I thank him for having shown a little bit of consideration for that unfortunate class the capitalists, and said that they were entitled to his sympathy, although I have not been in a position to understand what it is that has provoked the wrath of my friend, Mr. Jadhav, against them. If Mr. Jadhav had been in practice, as it has been my misfortune to be for some time in my life, he would have found how many capitalists have got to go to the Court and as Sir Richard Garth, the late Chief Justice of Bengal, said, the troubles of the decree holder commences after obtaining the decree. How many of these amiable gentlemen, who have incurred the wrath of my friend, Mr. Jadhav, are able to recover the principal alone, leave aside the interest. It is only those who are accustomed to the operations of the law courts can know. However, it is just as well that my friend, Mr. Ranga Iyer, in his enthusiasm to support the Government has extended his sympathy to this class.

Sir, when the motion for the second reading of this Bill took place, I was reminded of an old Tamil proverb: A hungry man looks into his past account. The man has not got money and he does not know how he can make both ends meet. He is perfectly sure that all his previous accounts have been squared up and yet he takes up his accounts and turns them over page after page upon the off-chance of finding some arrears from somewhere so that he might realise them. It struck me that in spite of the two defeats in connection with the same Bill, my Honourable friend, the Finance Member, has tried his hand a third time upon the principle of that proverb. But I am grateful to him. I belong to a race which has been proverbially

[Raja Bahadur G. Krishnamachariar.]

grateful and I am very grateful to him for the great concession though hedged in by a difficult condition that he has made regarding the agricultural income, but as it forms the subject of a separate issue, I shall not trouble the House with any further observations in that connection. But notwithstanding that gratitude, there are certain matters which I have got to place before this House, always confining myself in the wake of my Honourable friend, Sir Cowasji Jehangir, to the particular question at issue, namely, circulate or not circulate. Sir, in the southern districts of my Presidency there have been a lot of emigration into the Malaya States, Mauritius and other places where they could trade. Four Presidents of the District Board of Southern India have been telegraphing to me for the last two or three weeks asking me that either the Bill should be opposed or that a motion should be made that it be circulated so that they might consider the whole position. Sir, it is not an unusual thing to ask. If I can put a question which probably will be considered as impertinent by some of my friends here, may I ask how many of my Honourable friends over here study every Bill before they come to this House for its discussion? Some of them are technical and for others we have not got time to read and, therefore, we come here, stand up, say something and then we are quite satisfied and we go back home with the idea that we have done a good day's work. That is all right so far as we are concerned, but that is not the case with those persons who have got to pay. It is all very well for you to make a speech which is good, bad or indifferent. Some gentlemen say that you waste the time of the House; others say you did a very good thing in taking up the time of the House. But between them both is the man who pays in consequence of the operation of this Act. It is he who has got to say whether everything that can be said has been said in this House and it is he, who, though defeated, will be satisfied because in this world everything depends upon the individual's previous *karma*. He will have at least this satisfaction that he tried his best to see that all these points have been thoroughly threshed out. Sir, that being the position, there is absolutely no harm and there is absolutely no loss if you could wait for another three months. There is one very important reason why this Bill might remain in abeyance for three months. My Honourable friend talked of Federation. I hope the Federation is coming. I myself have my "doots" as the Scotch say. But if the Federation ever comes, though 50 per cent. of the Indian States have to join it, a Reserve Bank has got to be instituted, you have got to see that the budgetary position is so strong and that there is absolutely no other difficulty in forming this Bank. All these conditions may be easy of fulfilment, but to me it looks as though they are as distant today as ever. Supposing the Federation comes, the most important question to consider would be how far a double taxation of the income, which originally accrued in an Indian State, be dealt with. That matter, so far as I have been able to read the White Paper, has not been properly discussed for the simple reason probably that it is not yet a live issue. After all I do not agree with my Honourable friend, Mr. Ranga Iyer, that there is nothing lost in trying to satisfy a man or to make him feel that justice has been done. You may do justice; I have no doubt that you intend to do justice. But the most important principle to apply in the case of doing justice is that you must convince the other fellow that you have done justice. It is that which would make your position strong, and I submit, Sir, that if

only out of justice to these people, who have gone out of the country and who have tried to save money and who will have to bring it here some day, their case should be properly considered by us before we pass this law.

There are two other matters: I do not know if I would be in order in making reference to them now, but they too ought to be considered. The first is that, according to the existing law income in an Indian State which has once been received cannot be said to be received again in British India although it is brought here. That is, therefore, exempt from taxation. For instance, if you received income in an Indian State and then brought it whenever you liked, whether now or after ten years, that income is not supposed to have been received in British India and consequently it cannot be taxed as the law at present stands. My authority for the position is the well-known case of Sir Ali Imam, and another more important and big case from the Frontier Province decided by the Punjab High Court, and I believe one very important case of the Nattukottai Chettiyars in Madras. So far as that position is concerned, I do not see that the Bill has been considered; and another matter, which my Honourable friend, Sir Cowasji Jehangir, referred to in the speech on the second reading and on the faith of which I said I would not say anything as the Bill only goes to the Select Committee, is that the effect of this Bill is to tax capital. Now the report of the Select Committee or the Bill itself does not say anything about it nor does it remove any objection with reference to this phase of the question. And it is this which is stressed a great deal by those gentlemen in South India, the Presidents of the District Boards that I referred to. I say upon these grounds that there will be nothing lost, putting it at the lowest possible ground, that the Bill should be circulated for opinion.

**Several Honourable Members:** The question may now be put.

**Mr. Deputy President (Mr. Abdul Maṭin Chaudhury):** The question is:

"That the question be now put."

The Assembly divided:

AYES—36.

Acott, Mr. A. S. V.  
 Ahmad Nawaz Khan, Major Nawab.  
 Allah Baksh Khan Tiwana, Khan  
 Bahadur Malik.  
 Amir Hussain, Khan Bahadur Saiyid  
 Bajpai, Mr. G. S.  
 Clow, Mr. A. G.  
 Dalal, Dr. B. D.  
 Dutt, Mr. Amar Nath.  
 Dutt, Mr. G. S.  
 Ghuznavi, Mr. A. H.  
 Gidney, Lieut.-Colonel Sir Henry.  
 Hezlett, Mr. J.  
 Ismail Ali Khan, Kunwar Hajee.  
 Jawahar Singh, Sardar Bahadur  
 Sardar.  
 Joshi, Mr. N. M.  
 Lal Chand, Hony. Captain Rao  
 Bahadur Chaudhri.  
 Leach, Mr. A. G.  
 Maswood Ahmad, Mr. M.

Megaw, Major General Sir John.  
 Metcalfe, Mr. H. A. F.  
 Mukherjee, Rai Bahadur S. C.  
 Rafiuddin Ahmad, Khan Bahadur  
 Maulvi.  
 Raghubir Singh, Kunwar.  
 Raisman, Mr. A.  
 Rajah, Rao Bahadur M. C.  
 Rastogi, Mr. Badri Lal.  
 Rau, Mr. P. R.  
 Ryan, Sir Thomas.  
 Seaman, Mr. C. K.  
 Sher Muhammad Khan Gakhar,  
 Captain.  
 Singh, Mr. Pradyumna Prashad  
 Suhrawardy, Sir Abdulla-al-Māmin.  
 Tottenham, Mr. G. R. F.  
 Trivedi, Mr. C. M.  
 Yakub, Sir Muhammad.  
 Yamin Khan, Mr. Muhammad.



## NOES—41.

Anwar-ul-Azim, Mr. Muhammad.  
 Azhar Ali, Mr. Muhammad.  
 Biswas, Mr. C. C.  
 Chinoy, Mr. Rahimtoola M.  
 Das, Mr. B.  
 Fox, Mr. H. B.  
 Gour, Sir Hari Singh.  
 Gunjal, Mr. N. R.  
 Hudson, Sir Leslie.  
 Ibrahim Ali Khan, Lt. Nawab  
 Muhammad.  
 Jadhav, Mr. B. V.  
 James, Mr. F. E.  
 Jehangir, Sir Cowasji.  
 Jog, Mr. S. G.  
 Krishnamachariar, Raja Bahadur G.  
 Kyaw Myint U.  
 Lildadhar Chaudhury, Seth.  
 Mackenzie, Mr. R. T. H.  
 Misra, Mr. B. N.  
 Mitra, Mr. S. C.  
 Mody, Mr. H. P.  
 Morgan, Mr. G.

Muazzam Saheb Bahadur, Mr.  
 Muhammad.  
 Mudaliar, Diwan Bahadur A. Rama-  
 swami.  
 Murtuza Saheb Bahadur, Maulvi  
 Sayyid.  
 Neogy, Mr. K. C.  
 Pandian, Mr. B. Rajaram.  
 Pandit, Rao Bahadur S. R.  
 Parma Nand, Bhai.  
 Patil, Rao Bahadur B. L.  
 Rajan Bakhsh Shah, Khan Bahadur  
 Makhdum Syed.  
 Ranga Iyer, Mr. C. S.  
 Scott, Mr. J. Ramsay.  
 Sen, Mr. S. C.  
 Singh, Kumar Gupteshwar Prasad.  
 Singh, Mr. Gaya Prasad.  
 Smith, Mr. R.  
 Sohan Singh, Sirdar.  
 Thampam, Mr. K. P.  
 Uppi Saheb Bahadur, Mr.  
 Ziauddin Ahmad, Dr.

The motion was negatived.

**Mr. C. C. Biswas** (Calcutta: Non-Muhammadan Urban): Sir, I am somewhat surprised to find that my friends, Sir Cowasji Jehangir, Mr. Jadhav and Raja Bahadur Krishnamachariar, are now so loudly demanding that the Bill should be circulated for opinion. I was just turning up the Assembly Debates of the 16th February when the Honourable the Finance Member brought forward the motion for referring the Bill to Select Committee, and, reading the speeches which were made by my friends on that occasion, I find that every one of them supported and enthusiastically supported the motion for Select Committee. Not a single suggestion was made on that occasion that the Bill should go to the country for opinions. On the other hand I find that Mr. Jadhav went out of his way to congratulate the Finance Member on the wisdom he had shown in asking for a reference to Select Committee and avoiding a rambling discussion on the floor of this House.

Sir, the Bill has come back from the Select Committee with the rigours of the original provisions very much softened down and we find the further assurance given us by the Honourable the Finance Member today so far as agricultural income is concerned. My friends have been so loud in suggesting that the country should be given an opportunity to express an opinion on this Bill; they were, however, oblivious in the Select Committee of the specific points which had been made on the floor of the House on the last occasion. They forgot all about agricultural income, and it was left to the Honourable the Finance Member here now to give us an assurance on that point. Possibly, my friends were so anxious to save themselves from what they call a levy on capital that they forgot all about the poor agriculturists. That is the way, Sir, our friends in the Select Committee did their work. Speaking for myself, I am not prepared to accept this demand for circulation at its face value. I look upon it more as a dilatory motion than anything else. After all, what is the principle the Bill stands for? It does not contain any new principle. If you look

at the Act as it stands, you find, Sir, that income which is earned abroad is taxable. All income is liable to tax, "if it is received in British India". All that is now being sought to be done is to make it taxable irrespective of how long after its accrual it is brought into British India. The principle, as I have said, is already recognised in the Act. Look at section 4, it says:

"This Act shall apply to all income, profits or gains, as described or comprised in section 6, from whatever source derived, accruing or arising, or received in British India, or deemed under the provisions of this Act to accrue, or arise, or to be received in British India."

In other words, the categories of income which are taxable under the Indian Income-tax Act are (i) income accruing or arising in British India, (ii) income received in British India, and (iii) income which may be deemed to have arisen, or accrued or been received in British India. In subsection (2) of section 4, as it now stands, you find one particular case where income is "deemed" under the Act to accrue, arise or be received in British India. It is restricted in its application to the case of profits or gains of business, and lays down in regard to income of this nature that such income, accruing or arising out of British India, shall be deemed to have accrued or arisen in British India, if it is received in India within a certain specified time. If you accept now the provisions of this Bill, the result will be that this restriction to profits and gains of business will be done away with, and its further effect will be that income of all kinds, irrespective of the year in which it is earned abroad will be subject to income-tax when received in British India. The point I wish to make is that income other than profits or gains of a business is also subject to Indian income-tax now—I mean such income arising abroad—it is subject to Indian Income-tax, if received in British India. But in the case of such income, i.e., income other than profits or gains of a business, arising abroad, it would be income of the year in which it actually accrues and not of the year in which it is received in British India, so that if you take it along with section 3, which is the charging section and which says that income of the *previous* year only shall be chargeable, such income practically enjoys exemption. You have only to postpone the remittance of such income, that is, income other than profits or gains, for one year to evade the tax. That will no longer be possible now.

**Sir Cowasji Jehangir:** A new interpretation of the Income-tax Act for you (addressing the Honourable the Finance Member).

**Mr. C. C. Biswas:** In regard to income from business accruing out of British India, you avoid the tax by postponing its remittance to British India for three years; in regard to other income, you evade it by postponing remittance for one year. So I say, Sir, there is no new principle put forward in this Bill; the principle is all there already in the existing Act. The excuses which were available to parties hitherto for avoiding taxation, by postponing the remittance of income by three years in one case and for one year in the other, will now be done away with. That is all. Therefore, I do not see that we shall gain anything by circulation of the Bill for the opinion of this country, unless it is merely to delay the passing of this measure.

**Sir Leslie Hudson** (Bombay: European): Sir, as regards the question of circulating the Bill for further opinion, the Honourable the Finance Member expressed himself in hardly measured terms in regard to the fact that the Bill has already been before the Honourable Members of this House for seven months. It is true that when the Bill was first published, it seemed to most of us to be a very simple Bill and to have no great difficulty about it. It was not until the Bill was almost in the throes of the Select Committee that certain possible hardships occurred to us as being likely to arise out of this Bill. There was a fear engendered that cases might be affected which were not intended to be covered by this Bill. Cases occurred to us, genuine cases, of companies operating both in India and abroad in Great Britain, where this Bill might very seriously affect the sterling reserves of such companies when brought into this country. It is true that people should of course be prevented from evading the taxes which they are legally bound to pay. It is true that they should be prevented from evading taxes by keeping their income outside India; but it is also true that capital should have no barrier raised against it which would prevent it coming into this country. I understood the Honourable Sir George Schuster to say that he did not anticipate any hard cases. It is unfortunately our fear that there will be hard cases and it is because of that fear that we have not viewed this Bill recently in quite the same favourable light as we did when it was first placed before us. The Honourable the Finance Member, however, went on to say that he would welcome a Committee to advise him in considering such cases, and I understood him to say that he promised that if there was a *prima facie* "hard case" caused by the Bill which the Bill is not intended to cause, he would give his emphatic guarantee that Government would bring in legislation to amend the Act in such a way as to prevent the recurrence of such hard cases. I hope that the Honourable the Finance Member will be able to give us an unequivocal and unconditional assurance that he will be willing to accept such a Committee. If so, I should be prepared to vote against circulation of the Bill; but if he is unable to do so, then I shall have to vote for circulation. I would suggest that quite a small Committee may be formed, a Committee of three, a representative each of the Associated Chambers of Commerce and the Federation of Indian Chambers of Commerce and the Government nominee. They would provide the expert knowledge competent to deal with any such cases that might arise, and would command the confidence of commercial people and the tax-payers of this country.

The motion before the House is for circulation. The Honourable the Finance Member's opposition to this course appeared to be largely on somewhat personal grounds, as he considered that the House should have come to some decision before the expiry of seven months from the laying of the Bill before the House, and also for reasons of convenience. But I think these matters are somewhat beside the point. Genuine apprehension has certainly come to light and I hope that the Honourable the Finance Member will be able to give us a definite statement, that he will be able to give us a categorical assurance of the setting up of the Committee which I have suggested, and secondly that in the case of *prima facie* hard cases Government will bring in the necessary amending legislation. If this is done, the apprehension which is held by myself and by those of my Party will be very largely met.

**Mr. Muhammad Anwar-ul-Azim** (Chittagong Division: Muhammadan Rural): Mr. Deputy President, it is not at all necessary for me, a layman, to intervene in this debate, but I think those of us who are not at all interested in foreign investments must have our say. I do not know if this Bill will not touch incomes accruing from tea estates situated in Native States here in this country, and if that affects them, it will affect many of us also. My Honourable friend, the Finance Member, pleaded with very great vehemence why should this House not hit at some measure by which the distress of the tax-paying public will be alleviated to a certain extent. But I am sorry to find that he has not given us the actual figures. I do not know whether this is likely to balance his Budget altogether or whether it will be such a windfall that it will not be required to have recourse to the Finance Bill next year. But, in the absence of that, it becomes very difficult, especially for a man of my position, here in this House to decide one way or the other; and if Government are inclined to examine certain cases which have been put forward by the Leader of the European Group, perhaps that might meet my objection.

[At this stage Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) resumed the Chair.]

But I do not know what loss would be incurred by the Government of India if they accepted Mr. Jadhav's proposal. If, by waiting for three or four months, they are not likely to be very great losers, I do not know why they should not accept this motion. Certain friends have suggested that as India is a vast country, we ought to take broader views of things on national lines. I have absolutely no quarrel with them. Perhaps if this is enacted in this year of grace 1933, the result would be that there may be a complication if the Indian States join the Federation. There is another difficulty. As regards the gentlemen who are carrying on trade with the outside world and making profits out of that business, it will be a sort of handicap to them if this Bill is passed; and I do not know what my nationalist friends like Mr. Ranga Iyer and others will say if this trade is closed altogether by this Bill. I do not know, but I thought that these gentlemen, who carry on trade with the outside world, were really contributing quite a substantial amount of money to the Indian Exchequer. My information is this, that if you eliminate them altogether from the picture, I am sure, the so-called nationalists, for whom my friend, Mr. Ranga Iyer, and others have pleaded, will not be able to make this country live and float.

**Mr. Gaya Prasad Singh** (Muzaffarpur cum Champaran: Non-Muhammadan): Sir, on a former occasion when a similar measure was under discussion, I said that if Government brought forward such measures, I shall be willing to give my support to them and, it is in fulfilment of that undertaking, that I rise to support this motion.

Sir, before proceeding further to make a few remarks which I wish to offer on this Bill, I should like to say that I am opposed to the motion of my friend, Mr. Jadhav, that the Bill should be circulated for eliciting public opinion. I think that this motion of my friend is a dilatory one, and we should proceed forthwith to discuss the measure on its merits, and dispose it off one way or the other. I should also like to dissent from the view expressed by Mr. Ranga Iyer when he said that it is not for us to dictate to Government what measures they should introduce and when. We, who constitute the Members of the Opposition, have a right to know that we are not seriously inconvenienced by the

[Mr. Gaya Prasad Singh.]

way in which Government bring forward their measures. The time when the House would be sitting was notified, and we were under the impression that by end of March the Session would come to a close. Since then the House has been sitting continuously for a number of days. I do not object, Sir, to continuing the Session for a number of days, but those of us who have got other business also to attend to should have been informed beforehand as to the probable duration of the Session. It is not quite fair to the House that Government should bring forward measures at the far end of a long and arduous Session expecting us to wait indefinitely as we are doing now. Fortunately, this measure, in my opinion, is not so controversial, and I, therefore, lend my support to the principle of it.

Sir, the only operative part of the clause is this, that after the words "profits and gains" in sub-section (2) of section 4 of the Income-tax Act, the words "of a business" shall be omitted. That was the draft in the original Bill; since which the Select Committee have reported that for the words "profits and gains of the business", the words "income, profits and gains" shall be inserted, and before the word "profits", where it occurs for the second time, the word "income" shall be inserted. Now, Sir, it is necessary to refer to sub-section (2) of section 4 of the Indian Income-tax Act. It runs as follows:

"Profits and gains of a business accruing or arising without British India to a person resident in British India shall, if they are received in, or brought into British India, be deemed to have accrued or arisen in British India and to be profits and gains of the year in which they are so received or brought, notwithstanding the fact that they did not so accrue or arise in that year, provided that they are so received or brought in within three years of the end of the year in which they accrued or arose."

Sir, many of our capitalists, against whom I have not a word to say on this occasion, are in the habit of investing their money abroad. It may be for a greater security, or it may be for accumulation of profits and gains on their capital. Be that as it may, it is quite fair and proper that when the accumulated profits on their investments are brought into British India, they should be liable to income-tax. In other countries, capitalists invest their monies in their own countries, with the result that the national wealth of these countries is increased and trade and industry are given a fillip, but in this country capital is shy, and when there is a question of investing money, many of our people, who have abundance of money to spare, invest it outside India. I do not find fault with them, but it is only fair that the State should get their share by way of income-tax when the accumulated profits or incomes from their business or other form of investment are brought into British India. This measure is intended to render all foreign income of a resident in British India, from whatever source derived, liable to income-tax in British India, whenever it is received in or brought into British India. At first it was confined only to profits or income of a business and not to accumulated income from other sources, but this Bill seeks to enlarge the scope and bring within its purview the accumulated income or investment from whatever sources received. Sir, I do not know how far it will affect investments in Indian States, but it is a matter on which much could be said on both sides and which should be looked into carefully during the course of this discussion; but so far as the broad principle of the Bill is concerned, namely, that the accumulated profits on investments abroad should, when brought into British India, be taxed, is a principle which I am willing to support.

**Mr. Muhammad Ashar Ali** (Lucknow and Fyzabad Divisions: Muhammadan Rural): Sir, it was in the year 1886 that the first Income-tax Act was enacted in order partly to meet the cost of the Burmese War and partly due to the fall in the price of silver. After so many years, this idea has struck the present Government to introduce taxation on incomes which are earned or brought into British India from outside. I submit, Sir, that at a time when we are contemplating a Federation, the introduction of this measure will also lead to a sort of internecine warfare between British India and the Indian States. This Bill might force the Indian States to follow the course that we are adopting here today. They may also consider the question of increasing their own incomes by taxing the British Indian subjects who are carrying on trade in Indian States, and I, therefore, feel that this is not the proper time to introduce this sort of legislation. When the Federation comes into existence, when we are federated, when we sit side by side with subjects of the Indian States, that will be the best time to consider such reciprocal enactments. At present, if we are in a hurry to get more money, simply because we are going to introduce Federation, it would be tantamount to robbing Peter to pay Paul, because the Indian States will try to rob British Indian subjects who are carrying on their trade in those Indian States. It is a sort of driving a wedge into the unity which exists between British India and the Indian States. My friends are right when they say that capital is wanted for encouraging Swadeshi and that some of our wealthy capitalists should invest their money in this country only, instead of investing it abroad, but by forcing this legislation, it will be very difficult to force people to bring their money which they have invested abroad into this country. By force we cannot induce people to bring back their capital into this country. They will not bring their capital back into the country unless and until Government can show that the investments in British India are more profitable. Then and then alone, will people, who have invested money abroad, bring it back to India. Supposing Swadeshi is not encouraged by the British Government or by the Indian Government, as we find that it is not encouraged by the present Government, what is the security in investments in this country? Although, it must be said to their credit that a lot of people are investing their money in Swadeshi enterprises in this country, yet people, who have made their investments abroad, will not care to bring back their investments into this country without some security. Sir, nobody can deny that Swadeshi and Indian industries can be developed by investing more money here in British India, but unless and until the Indians themselves or the Europeans from outside find that there is a banking system in India on a sure footing or a Reserve Bank is formed, it will be very difficult for investors from outside or even from British India to bring back their money. With these words, I support the circulation motion.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions: Non-Muhammadan): The Honourable the Finance Member in making his motion has unwittingly given away his whole case, because, in advance of the motion for circulation, he offered what he considers to be an olive branch, but, which, I submit, is more allied to a white flag. He said that he was prepared to appoint a Committee for the purpose of examining the working of the new Bill when it becomes law and that if, thereafter, he found that there were any flaws in it, he was prepared to introduce an amending Bill for the purpose of rectifying the mistakes and errors or the hardships that

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may arise. This House is aware of the very large number of Bills that have been placed on the Statute-book within the life of the reformed constitution which has been in existence for a period of 12 years, but I have still to know of one single occasion when the protagonist of Government came forward and said "Shut your eyes, open your mouth. I will put something into it, and if you do not like it, you can throw it out". I have seen cases after cases in which as soon as it became tolerably clear that public opinion should be sounded, Members of Government, and, I may add, even the Finance Member himself on a previous occasion, not in this connection, but in another cognate occasion, immediately conceded that it was a case for circulation and he was prepared to accept such a motion. It was not for the purpose of defeating the Opposition of the disciplined ranks that the Finance Member commands. It is, I submit, by the moral suasion that we can exercise at the fag end of a weary Session that we hope to win the purpose we have in view.

My Honourable friend, Mr. Gaya Prasad Singh, dissented from the speech of my friend who comes and goes like a meteor in this House by protesting against the production of highly controversial measures at the fag end of the Session. Speaking for myself, I have felt that after a long and tedious work done in this work conscientiously and those who do not do their work conscientiously cannot understand me that it is difficult to undergo the travails of a prolonged Session. Sitting as we do here from 11 o'clock day after day and watching and listening to the vagaries of Members around me, it is not an easy task after two months of vigil to be told that my labours were not at an end and that I should have to wait for 12 days or 20 days perhaps according to the business that the Government may bring forward. I emphatically protest against it.

**Mr. C. S. Ranga Iyer:** How long does the House of Commons sit?

**Sir Hari Singh Gour:** My friend enaculates: "How long does the House of Commons sit". We are not a House of Commons. My Honourable friend should not live in that delusion. My Honourable friend may aspire one day to sit on the Treasury Benches, but no Member should suffer from the delusion that we are a House of Commons and that Government are a Government made by Members of the House of Commons. Sir, I emphatically protest against the introduction of highly controversial and knotty measure at the fag end of an extended Session. When you have done your work from 11 to 5, one is in an extremely difficult position. Many of us have limited brains and suffer from what is characteristically known as brain fag and we are not able to carry in our heads highly controversial questions that arise after a certain stage, especially when the temperature mounts up to a degree that even the whirling of fans is not able to cool our brains.

Now, Sir, turning to the question with which we are confronted, my Honourable friend, Sir Cowasji Jehangir, has left very little more to be said in favour of his support for circulation. Honourable Members will find as he has pointed out that this identical question engaged the attention of the Select Committee which consolidated the Act of 1922 and that that Select Committee as well as the House were confronted with one very great difficulty, a difficulty which the House should carefully consider and

ponder over That difficulty was how to distinguish capital from income. If money comes into the country, which is the accumulated capital and savings of a life time, how is the taxing officer, at the end of the year, when he taxes the money which he has brought to his home land . . . .

**Sir Muhammad Yakub:** May I know if this is an argument in favour of circulation?

**Sir Hari Singh Gour:** I do not give way.

**Sir Muhammad Yakub:** On a point of order. The motion before the House is that the Bill should be circulated for eliciting public opinion. The debate on this motion ought to be confined to arguments in support of circulation and anything, which is beyond the scope of that motion, should be irrelevant. I, therefore, ask your ruling as to whether the arguments which are being used by my Honourable friend are relevant to this subject and whether it is in order.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): When the circulation motion was moved, the Chair ruled that the discussion would comprise the amendment as well as the original motion so that we may have one comprehensive discussion and the Honourable Member is, therefore, in order.

**Sir Hari Singh Gour:** Now, Sir, what I was going to submit to the Honourable Members for their consideration was that the main difficulty with which the Select Committee was in 1922 confronted was how to distinguish capital from income, and they came to the conclusion that it was difficult and in many cases . . . . .

**Mr. N. N. Anklesaria** (Bombay Northern Division: Non-Muhammadian Rural): On a point of order, Sir. Is the Honourable Member entitled to repeat exactly the words which he uttered in this House in his previous speech on this very Bill?

**Sir Hari Singh Gour:** And the Committee in 1922 and the House decided that the simplest plan which the assessee would understand, which the income-tax officer would understand, was to fix a rule of limitation, with which lawyers are familiar, that, whatever is accumulated for three years and is brought into the country shall be treated as capital and what is not brought into the country within those three years will be treated as income, and that is the provision which was inserted in 1922. Now, for these 11 years or more, that provision has been working and there is no suggestion that that provision has caused any hardship or that it has failed to work in practice. Now last year or it was the year before last when the Honourable the Finance Member piloted a much more ambitious Bill before this House known as the Foreign Income-tax Bill, in which he sought to include all incomes whether arising in British India or outside for the purposes of assessment, that Bill was circulated and the bulk of the opinion received on that Bill justified the course which this House took of throwing out that measure. Consequently, so far as the present Bill is concerned, the present Bill now seeks to introduce a similar but, at the same time, a distinct principle. The present Bill seeks to introduce



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the principle that all profits and gains arising irrespective of time and brought into British India shall be taxable under the Income-tax Act. (*Diwan Bahadur A. Ramaswami Mudaliar*: "After April, 1933.") That is a detail. This raises once more the question as to how you are going to decide what is income and what is capital. That question will once more come up, and here the Select Committee found that it was difficult to distinguish income from capital; and as the influx of money that comes into British India will be subjected to income-tax and the burden of proving that it is not income-tax would be so onerous upon the assessee that it would be in many cases difficult, if not impossible, for him to sustain the burden, we suggested that, while we were perfectly prepared to allow the amendment of clause (a), we were not equally prepared to allow the deletion of clause (b). But when we found ourselves out-voted in the Select Committee, we once more were relegated to the position in which the Select Committee of 1922 found itself of having to sound public opinion in what way to deal with the situation, which neither the public opinion in 1922, nor indeed the Select Committee, nor indeed the First Assembly was able to solve otherwise than by enacting the rule of practice to which I have adverted. Now, Sir, these are, therefore, the *prima facie* grounds for circulation. I would further point out to the Honourable Members that though the Honourable the Finance Member has said that this Bill has been before the House for seven months, the Finance Member must be aware that a number of 50 odd Bills also have been before this House, some official, some of them non-official, and if the public were to interest themselves in the study of all these Bills that are before this House and were to frame opinions and send them up to the Government of India, the spacious archives of the Government of India would not be sufficient to hold them and then the population of India would be engaged, not in their normal occupations, but in the study of Bills introduced and pending before the Legislatures. Does the Honourable the Finance Member suggest in all seriousness that all Bills that are introduced into this House should be given opinions upon by the public without their being invited to do so? And yet that is one of the arguments which my Honourable friend, the Finance Member, uses for opposing the motion for circulation.

Now, Sir, a great many of my Honourable friends who have spoken against the motion for circulation might perhaps pause and reconsider the position with which they would find themselves confronted if they give a moment's thought and reflection to what this Bill really implies. Honourable Members will find that my friend, I think, Raja Bahadur Krishnama-chariar, referred to a large number of telegrams that he received from various parts of the country asking the Members to oppose this Bill on various grounds. I too have been the recipient of some of these telegrams, but, in addition to these telegrams and letters and other representations I have received from the country, I was greatly interested, and I need hardly say influenced by a representation that I received from a leading organ of public opinion in Singapore known as the *Malay Tribune*, and thinking that that organ of public opinion voices the feelings of the resident Indians overseas, I took the liberty of sending the letter in original to the Honourable the Finance Member and asking him to read it, which, I am sure, he did. He promised to frame a reply and I hope that that reply is by this time ready . . . . .

**The Honourable Sir George Schuster:** It has gone. It went about a fortnight ago.

**Sir Hari Singh Gour:** But whether that reply is ready or not, the fact remains that the arguments that are clinched in this letter, written on the inspiration of the Indian traders in Singapore and the Federated Malay States, will bear a short summarization. Let me give a few facts to the Honourable Members of this House. The editor of this organ says:

"The Bill moved by the Honourable the Finance Member"

—and this letter is dated Singapore, March the 16th, 1933—

"in the Indian Legislative Assembly on February 16th to amend the Indian Income-tax Act has created doubts in the minds of many Indians in Malay as to what exactly the scope of the newly proposed amendments is. I have received a number of inquiries from local Indians as to whether income-tax will be levied upon their remittances home. Sir George Schuster is reported as having said in his speech on the subject that the Bill was not as ambitious a measure as that discussed last year regarding tax on incomes wherever and however earned in foreign countries. He declared in another place that he was sure that all would agree that persons and investors abroad should not be placed in a more favourable position than his more patriotic compeers who have invested money in Indian securities. The Indian community in Malaya, as you are no doubt aware, includes many Chettiyars, bankers and others for whom in the majority India is still home and the greater part of their incomes finds its way in due course to their motherland. It is, however, a matter which greatly concerns them whether the Government of India contemplates extending the Income-tax Act to embrace them; and, if so, how and where the tax will be assessed and collected and how differentiations between capital and income will be assessed in the case of bankers and how it will be possible to decide in the case of men with smaller incomes whether they have earned the minimum of Rs. 1,000 (*mark these words*) in a year. These and similar questions are eagerly and anxiously asked by Indians here and I shall be grateful if you will kindly favour me with a statement on the proposed income-tax amendment as affecting overseas Indians who have not permanently severed their financial relations with the home country."

Now, these are the few of the many questions that agitate the minds of Indian traders overseas. (*Mr. S. C. Mitra:* "What was the reply to that letter." I do not know what the reply was. It was never sent to me. This letter was addressed to me and another letter, Sir George Schuster informed me a *verbatim* copy of this . . . . .

**The Honourable Sir George Schuster:** I received an identical letter which I answered about a fortnight ago. I shall be very pleased to tell the House what my answer was.

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions: Non-Muhamadan Rural): Our doubts are removed now.

**Sir Hari Singh Gour:** An exactly identical letter was received by the Honourable the Finance Member. Now, Sir, what is the reply to these numerous questions? It will not do merely to say that the Honourable the Finance Member has given a reply. I think these people who have got their doubts are equally entitled to be heard upon the reply which the Honourable the Finance Member has sent to them. In all fairness should they not be heard in respect of the income which they make and the capital which they accumulate and which they wish to remit to their motherland after years of toil in a foreign country under an alien rule? If they want this, then surely the least that this House can do is to accept the motion of the Honourable Mr. Jadhav. There is nothing lost indeed by circulating this Bill to people in India, in the Indian States and in the overseas Dominions of His Majesty where Indians reside and have carried

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on trade for several generations. The Government will feel stronger after the accumulation of opinions from these sources. They will come with reinforced strength and the opposition they might offer to the further progress of this Bill would be done in the face of the volume of opinion if favourable to the Government proposals. Some of the Honourable Members have described this motion as a dilatory motion. I understand, Sir, the term dilatory motion to mean a motion when a motion for consideration is sought, to defeat it or circumvent it by the adoption of this device. But when you give a definite time that the reply shall come before the next Simla Session which, in the ordinary course, will be held in September, can anybody describe this motion as a dilatory motion?

**Mr. M. Maswood Ahmad** (Patna and Chota Nagpur *cum* Orissa : Muhammadan): Will there be a Select Committee also after this?

**Sir Hari Singh Gour:** Not necessarily. I, therefore, submit that the motion is not dilatory and I submit that a strong *prima facie* case has been made out for holding this enquiry before this House commits itself to the enactment of this measure. The very fact that the Honourable the Finance Member has offered to appoint a Committee to go into the defects of this Bill is itself, I submit, a confession that he is not quite sure of the ground upon which he wants this House to tread. There are some Members who have been ejaculating and seem to be in undue hurry. One Honourable Member asked me and he happens to be speaking at this moment something about this Bill. I asked him: "What is your attitude about this Bill?" He said: "I am not affected by it; let them tax." That is the attitude of the Honourable Member and, I am sure, that is the attitude of many Honourable Members who have come to the rescue of the Honourable the Finance Member. Let him be sure that the accumulated wisdom and wealth of these Members will not overfill the Government coffers. He has after all to depend upon men who have got a more substantial stake in the country and, if he wishes to defy their opinion and their views, let him be sure that the responsibility is a heavy one and it will lie heavy upon his shoulders. It is no use deciding these questions by the counting of the heads. If that was a challenge, the challenge should have come earlier in the Session. It came like this two years back and we took up the challenge. I submit, it is not a fair play when, after 2½ months' strenuous work at the close of the Session, the Honourable Member now wishes to rush through this most important Bill introducing a new principle and an innovation in the fundamental principle of taxation when nothing is visible behind my back except empty chairs which should ordinarily be occupied by representatives of the people. Sir, I submit that this is one of those cases in which circulation has everything in its favour and nothing against it. Time will decide and that time is a short one, whether this Bill is a sound one, whether underneath this Bill there is a sound principle. And if that principle be found sound, no one would be more willing to accord to it the support which it deserves than myself. I have done so in the past in spite of the opposition that I have received from the rank and file of my own Party. But convinced as I am that this is a measure in which the principle of *festina lente* should be applied, I support my Honourable friend, Mr. Jadhav.

**Several Honourable Members:** The question may now be put.

**Sir Muhammad Yakub:** Sir, the Honourable the Leader of a followerless Party started his speech by saying that it was not right to take an important measure like this at the fag-end of the Session. I am surprised to hear an argument like that from a great commentator of law-books like my Honourable friend, Sir Hari Singh Gour, who, I think, is now going to some other sphere in order to help Government in framing a new Constitution for India.

Sir, we are now on the threshold of a new Constitution. We wish and desire that all the power which is now vested in the hands of Government should come in our hands. Sir, the other day my Honourable friend, Sir Hari Singh Gour, was vehemently opposing the White Paper because, in his opinion, there were so many safeguards and no power had been given to him. But, Sir, when Federation comes, when all the power, that my friend desires, comes in our hands, what would become then of the fag-end of the Session? If we have all the important subjects to deal with and we have 375 Members in this House, I do not know whether there will be any fag-end of the Session. If we want power and responsibility in our hands, we must be prepared to shoulder the burden and give our time to it. Sir, if we pose here as representatives of the people whose rights we have come here to defend, then we must also be prepared to sit as long as we have got to defend their rights; and, therefore, this argument that we are at the fag-end of the Session does not really behove a great Leader of the Opposition.

**Mr. S. C. Mitra:** Who is the Leader of the Opposition?

**Sir Muhammad Yakub:** The gentleman who has been selected for a high position only because he was the Leader of the Opposition. Sir, it is natural for every man to evade taxation; everybody wants to avoid being taxed. There is nothing unnatural in the opposition which has been raised against this Bill, but of all the taxes income-tax is one which is extremely evaded in this country. My friend, Sir Cowasji Jehangir, said that this Bill will affect the tradesmen, it will affect the men in the Indian States, and it will affect men here and there. Of course it will affect them, because all this time those people were evading taxes. They were not paying that quota of taxation which they ought to have paid, and, therefore, the poor men in this country had to pay for them and had to suffer for it. I think if this Bill is passed, it will bring about 50 lakhs a year to the coffers of the Government of India.

**Sir Hari Singh Gour:** No.

**An Honourable Member:** What is your authority?

**Sir Muhammad Yakub:** On a calculation I find that it will bring something like it. But in these days of world-wide depression, even 10 lakhs would be a big sum for the poor tax-payers of India, and yet my Honourable friend says that there is no harm in circulating the Bill. The harm is this that as long as this Bill is not passed, we will be losing lakhs and lakhs of rupees for the Government of this country. Now, Sir, if a man has got his money outside the Indian banks, if a man has got his money

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all deposited in a bank in Ceylon or in a bank in some other part of the country, if he enjoys the protection of the Government of India, if he enjoys peace and protection for his wife and children in his home here in India, there is no reason why he should not pay his quota of taxation for bearing the burden of that administration which gives him all those benefits. I really do not understand where the injustice comes in. One strongest argument in favour of this Bill is that when you find capitalists on the one hand and the European Group on the other joining hands against Government, you must come to the conclusion that the measure must be for the benefit of the people of India. (Laughter.) Otherwise you will never find the European Group going against Government. Sir, my friend, Sir Hari Singh Gour, says that we have not got the opinions from the people of this country. He says that mere publication in the Government of India Gazette does not give sufficient publicity to the Bill in the country. He says that the people of the country do not care for all the Bills. Probably my friend found himself on the horns of a dilemma. Either the people of India care about these Bills or they do not. Of course it is not each and every Bill to which the educated people in the country pay attention, but there is no important Bill which does not draw the attention of the educated people of the country. If public opinion was not forthcoming, in such volume as my friend desires, then I think the conclusion is that the people do not object to it. If really they had any serious objections, then they would have expressed their opinion through the Press in large volumes. But my friend contradicts himself when he says that even Indians in Malaya, outside India, are taking an interest in the Bill and writing letters to my Honourable friend. If the Bill has not created any sensation in the country or the people have not thought fit to give their opinion upon it, why did my friend, Sir Hari Singh Gour, of all men in the country, receive letters from Indians in Malaya? Was it in reply to any letter from my Honourable friend or was it a voluntary letter from these people?

**Mr. O. S. Ranga Iyer:** It is opinion without circulation.

**Sir Muhammad Yakub:** If you can get opinion without circulation, then what is the use of circulation? In a Bill like this, there can be no two opinions. The capitalist and rich man, who has got his money accumulated outside the country, will never support the Bill. He would naturally like to avoid paying taxes as long as he possibly can; while the poor Indian tax-payer, who is already overburdened with heavy taxes and cannot bear any more, will say: "For goodness' sake get money from anywhere; take the money from the pockets of all those people who have been trying to avoid paying their proper quota of taxation and relieve us of the burden of these taxes."

With these words, I support the motion that the Bill be taken into consideration and oppose the motion for circulation.

**Mr. S. O. Sen** (Bengal National Chamber of Commerce: Indian Commerce): Sir, I have been listening very carefully to the debate and specially to the opinion expressed by Sir Hari Singh Gour and also his reference to the letter from Malaya or some other place where Indians carry

on business. I support the principles of the Bill. The Bill is here, it merely amends the Act. So far as regards profits from business are concerned, the taxation on this has been in existence for the last 10 or 15 years. Therefore, there could not be any question that those people who have been writing letters from Malaya if they had taken any interest in Indian affairs must have known that the profit from foreign business is already taxed. But the letter from Malaya shows that that is not the position. The business profit has been taxed and is being taxed for the last fifteen years, and what the Honourable the Finance Member now wants is to extend the principle of the Act to other sources, namely, income from investments, etc. I do not see where the difficulty comes in and where the shoe pinches, unless the people who had been investing their moneys in foreign countries want to enjoy benefits from such investments without payment of tax and they now feel that their profit of the investments will be liable to income-tax in this country.

**An Honourable Member:** Do investments include Government securities?

**Mr. S. C. Sen:** Whatever might be the investments which would bring a profit or income. Sir Hari Singh Gour was saying that there will be difficulty as regards profit and capital. I do not know, Sir, what is the meaning of that. Profit from business is now being taxed. Does the Income-tax Officer tax capital at the present moment or there is difficulty in definitely finding out about what is capital and what is income at the present time? So far as I know, there has not been any complaint on this head for the last 15 years. Any honest book-keeping will show definitely the accounts of capital and income separately and show what is capital and what is income. So, Sir, the objection on that score is merely frivolous and absurd. It has been suggested that under section 4 these incomes and profits from investments in foreign countries are already subjected to taxation under this Act now in existence. I do not think so, Sir. With all due deference to the gentleman who promulgated that view (*An Honourable Member*: "Who was that gentleman?")—he happens to be an advocate of the Calcutta High Court and one day aspires to be one of its Judges—Sir, if that be the case or if that principle is accepted by Government, there would not have been any necessity of making such a Bill as this, but the object could be achieved by framing a Bill omitting this section 4(2) from the operation of that Act. That would serve their purpose.

**Mr. C. C. Biswas:** I might explain, Sir, that I have authority for what I have said.

**Mr. S. C. Sen:** I think, if that be the opinion of the Honourable gentleman, he should submit his views to Mr. Mitchell, the draftsman of this legislation. He would have been glad, if that was possible, he would have merely submitted a Bill omitting clause 2 of section 4 which would have met his purpose, according to my friend.

Sir, so far as regards the motion for circulation, I do not know what to say about the matter; when I find that out of 12 Members of the

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Select Committee six were for circulation and six were against the circulation. Under these circumstances, I think, that it would be better if the Bill is referred to circulation for the purpose of eliciting public opinion.

**Several Honourable Members:** The question may now be put.

**Mr. President:** (The Honourable Mr. R. K. Sanmukham Chetty): The question is that the question be now put.

The motion was adopted.

**The Honourable Sir George Schuster:** Sir, we have had some very entertaining speeches in this debate, and I am sure that there is no speech to which any of us listened with greater pleasure than the speech which concluded about a quarter-of-an-hour ago by my Honourable and learned friend, the Member from Singapore! (Laughter). My Honourable friend started by saying that I in my own speech had given away the whole of my case. I think that perhaps I am able to find in his own speech some very useful sentences for my own purpose. In the first place, he told us, and I quote his exact words, that "Sir Cowasji Jehangir had left very little more to be said in favour of the motion for circulation". There I quite agree with him. There was very little to be said for circulation at the beginning and after Sir Cowasji Jehangir had spoken I felt quite convinced that there was nothing to be said at all! Then, Sir, my Honourable friend appealed to the sympathy of the House by referring to himself and I suppose to some of his colleagues when he said "we are tired and many of us have limited brains". Sir, the legislation that we put before this House is designed to be understood by persons with properly developed brains and if it is unintelligible and, therefore, in need of further circulation to persons outside this House, because Honourable Members have limited brains, then, I am afraid, Sir, we can do nothing to remedy that situation. But the greatest assistance which I got from my Honourable friend's speech was his argument when he appealed to me to allow this motion to proceed because if we submitted this Bill to circulation we should come before the House with reinforced strength for our case. Sir, I am myself of exactly the same opinion. I feel certain that if we submitted this Bill to circulation, we should strengthen our case. But my feeling also is that that would be a waste of time and that our case needs no strengthening. It is strong enough as it is. Now, Sir, I do not wish to delay the House at the end of a long day and there are only a few points with which I wish to deal.

In the first place, this whole plea for circulation seems to me to be entirely misplaced, or rather the arguments which we have heard today are based on entirely false premises. Sir Cowasji Jehangir, in speaking, suggested that thousands of people would be affected, and, therefore, that this Bill must be circulated, so that we may obtain their opinions. But, Sir, when we introduced a short time ago that provision in the Finance Bill for lowering the taxable limit of incomes liable to income-tax from Rs. 2,000 to Rs. 1,000, 350,000 people were affected by that change. Did any one suggest that the Bill should be circulated, so that each of those 350,000 people should be able to express their opinion on that measure?

I maintain that the proposition cannot be sustained that when any measure of taxation is to be introduced, this House is not competent to pass this measure unless it has received approval of all these people whom it is going to subject to that taxation. If that is to be the position, it will be impossible for this House to get through the business which it has before it in order to carry on the administration of the country.

Then, my Honourable friend, Sir Hari Singh Gour, wanted to suggest the adoption of some such procedure that the Bill be circulated to Singapore—that was the whole tenor of his argument—and other places. I say it is a travesty of the proceedings and methods of this House to suggest circulation on that sort of scale. My Honourable friend says: “Fifty Bills are before the House: can people be expected to express their opinions on all those Bills?” I do not suggest for a moment that they can be expected to express their opinion on all of those Bills, but there are Bills, of a certain type on which they are very ready to volunteer their opinions and this is one of them. We have received expressions of opinion from practically every Chamber of Commerce in the country, and I submit that to go again through a process of circulation for information and opinion would be an entire waste of time. Now, my Honourable friend quoted a letter from an editor of a newspaper in Malaya; and as he has given the House a number of questions that have been raised and has asked what the answers to those questions are, I should like to read to the House only a portion of the letter which I myself wrote in reply to the Editor of the *Malaya Tribune*. After explaining the position of the law at present under which business profits are already liable to tax, as has been pointed out by my friend, Mr. Sen, I then went on to deal with the point, which he raised, of Chettiyar bankers . . . .

**Sir Cowasji Jehangir:** Liable to tax after three years?

**The Honourable Sir George Schuster:** I did not mention the point about the extension beyond three years, because all the points that have been raised in this correspondence could arise equally well for the remission of profits within three years. In my letter I explained that position—I did not think it was necessary to take the time of the House repeating all that. I went on to say:

“As regards the Chettiyar bankers referred to in paragraph 3 of your letter, the fears which you entertain seem to be based to a great extent on a misapprehension of the position. A Chettiyar banker residing and doing business in Malaya on his own account and not as an agent of persons or joint Hindu families residing in British India is, so far as his own business outside British India is concerned, quite outside the scope of the British Indian income-tax law. The taxing authority in British India has no means of assessing him or subjecting him to tax. If he returns to India at any time with the money which he has thus earned by doing business abroad, he cannot be subjected to tax on that money, though of course when he settles down again in India he will become assessable to income-tax on any income earned from such money. If on the other hand this Chettiyar banker remits money to a person resident in British India, such remittance will be included in the total income of the recipient, and he, the recipient, will have to pay British Indian income-tax if his total income is above the taxable limit. This is the procedure under the law as at present and the new proposals make no difference in this connection.”

That, Sir, I think is sufficient to deal with the main impression which my Honourable friend attempted to create by reading from that letter.

Now, Sir, my Honourable friend, Sir Cowasji Jehangir, took us back into past history. I had not thought it necessary to take the House back to 1922, because I submit that the House must take its own judgment on



[Sir George Schuster.]

the case as it is put before it now, and on its merits, and is not bound by decisions taken by its predecessors in 1922. But if we are going to look back into the past, I believe that the result of that investigation, of that retrospection, will be quite interesting to this House. The procedure adopted when the Income-tax Bill of 1921, which became the Income-tax Act of 1922, was dealt with by the Government was this: Provincial Committees were set up mainly composed of non-officials; after those Provincial Committees had gone into the matter, an All-India Committee, composed of representatives of the Provincial Committees, made a report and a Bill was then framed and that Bill was considered by a Joint Select Committee of both Houses. Now, the suggestion made by my Honourable friend, Sir Cowasji Jehangir, and my Honourable friend, the Leader of the Nationalist Party, in both cases was that public opinion then had expressed itself very strongly against the principle which we are now trying to introduce. In reality the position was that public opinion expressed itself strongly in favour of the principle, but the Joint Select Committee of this House did not follow the opinion of those unofficial Committees. Now, this is very interesting. I quote from the report of the All-India Committee in paragraph 15 of their report:

"We are not in favour of the proposal of the Bombay Committee that the Act should be extended so as to make liable to Indian income-tax incomes earned outside British India when not received in British India."

That is to say, the All-India Committee was not in favour of the principle which was embodied in my own Bill of last year, a Bill that my Honourable friend, Sir Cowasji Jehangir, has described, as something much more venomous than this modest little measure which is now before the House. That venomous measure was recommended by the Bombay Committee of which my Honourable friend, Sir Cowasji Jehangir, was himself an honoured member. Past history in that respect is extremely interesting. My Honourable friend is entirely free to change his opinion; but I submit that if he wants this House to be guided by what happened in 1922, that is an argument with somewhat of a boomerang effect. Then the All-India Committee went on to say:

"When an assessee domiciled in British India has an income accruing outside British India and brings that income into British India at intervals, the Act should provide that the accumulated profits shall be liable to assessment whenever brought into British India irrespective of whether they are brought in within the year in which they are earned or not."

That, Sir, is the exact principle of the modest measure now before the House. That was the recommendation of the All-India Income-tax Committee of 1921 which I maintain was very representative of opinion in this country. But that opinion was not accepted by the Joint Select Committee of the Indian Legislature; and I think the reason was that the Joint Select Committee was led astray from the right path by these specious arguments about distinction between capital and income, with which my Honourable friend, Sir Cowasji Jehangir, has made such great play. I put it to the House that a serious mistake was made by that Joint Select Committee in 1922 and that it is high time that this House, with better sense, should rectify that mistake.

There are two points with which I must deal, points on which I myself said something, when I was moving the consideration of this Bill. In

the first place, I described the attitude which the Government would take up as regards the amendment about agricultural incomes. I wish to make it quite clear to my Honourable friend in whose name that amendment stands, that Government could not take the attitude which I said they would take, to any proposal which would *reduce* the existing liability: the attitude that they would take up would only refer to any provision which would increase the liability as it exists at present in respect of income from agricultural profits, income from land, in the territory of Indian States. I wish to make that quite clear, that that is the position that I meant to explain. Then, my Honourable friend, the Leader of the European Group, asked for a definite assurance from me as regards the suggestion to appoint a Special Committee to watch the operation of this Act. He asked for two things: first that we should appoint a Committee. That is a definite matter on which I have not the slightest difficulty in giving him the assurance. If that is the wish of the House, we will certainly set up that Committee, and I am glad to know that my Honourable friend's ideas are in the direction of a very small Committee. I am not quite sure,—it is a matter for consideration,—whether a Committee which contained only representatives of the two Associations of Chambers of Commerce would be quite representative enough. It seems to me that it is perhaps a little one-sided, and I am doubtful whether those two Members and the Government Member would supply all that is necessary. But that is a matter on which I have no doubt we can come to some agreement if the general opinion of the House is that a Committee of that kind should be appointed. But, on the second point, I do not wish to leave any sort of misunderstanding. My friend asked for an assurance that if that Committee discovered any hard cases, any cases which went beyond the intentions of the Bill as I explained it, we would introduce amending legislation. That certainly represents the spirit of what I said, and by that spirit we should certainly abide. But I cannot conceal from myself,—and I wish my friend to be under no delusion in this matter,—I cannot conceal from myself that there might be differences of opinion as to what were hard cases that required amending legislation, and I should be very sorry if, on any exaggerated interpretation of what I have said, my friends' votes should be influenced. I do not like to give assurances which I am not absolutely certain of being able to carry out, and I do see the possibility of there being differences of opinion. If the cases were genuine hard cases in our view, then we should certainly undertake amending legislation, but there is always the possibility that our view might differ from the view of my friends. . . .

**Mr. F. E. James** (Madras: European): Will the Honourable Member permit me to ask one question?

**The Honourable Sir George Schuster:** Certainly.

**Mr. F. E. James:** I am anxious to clear up the point in regard to the suggested Committee. I take it that it is the intention of the Honourable Member that the views of this Committee would be taken very seriously into consideration before the Government Members themselves came to their final conclusions, otherwise the Committee to us would have no value whatsoever.

**The Honourable Sir George Schuster:** That is quite obvious. The Government would undoubtedly give the most serious consideration to the Committee's recommendations, but I did not wish to commit Government to a pledge now that they would accept every recommendation of that Committee. That is going further than I could possibly go, and if my friends thought that that was the promise which I had given then, that would be a misunderstanding of the Government's position; but as far as the spirit of the arrangement goes, there I can say quite clearly that our definite idea would be to remedy any hard cases. I have already made it clear that in my own view those hard cases will not be found to exist.

Then, Sir, my friend, Sir Cowasji Jehangir, dangled before us the possibility of an argument as regards the discriminatory effect of this particular measure. As he did not develop his point, I certainly do not intend to develop my answer. I can only tell my friend that I look forward to answering him when he discloses his full argument . . . . .

**Sir Cowasji Jehangir:** Which you know very well.

**The Honourable Sir George Schuster:** That, Sir, I think, is all I need say on the matter at present. I put my case very clearly in introducing the motion for consideration, and I must apologise to the House for making a repetition of what I have said so often before. What we feel is, not that we wish to discourage the freedom of every man to invest his money wherever he likes, but that we do wish to remove an artificial inducement which exists at present to invest money outside India rather than in British India. It is that artificial inducement which this measure seeks to remove.

**Sir Cowasji Jehangir:** May I ask the Finance Member one simple question. Regardless of the opinions, any Local or Central Committee may have given, is it not a fact that when both the Bills of 1922 and 1932 were circulated for eliciting public opinion, the important principle of this Bill was strongly condemned by public opinion?

**Sir Muhammad Yakub:** What do you mean by public opinion?

**Sir Cowasji Jehangir:** Certainly.

**Sir Muhammad Yakub:** Do you mean the capitalists' opinion?

**The Honourable Sir George Schuster:** Is my Honourable friend referring to the 1922 Bill?

**Sir Cowasji Jehangir:** And the 1932 Bill, both.

**The Honourable Sir George Schuster:** As regards the 1922 Bill, my information is that that was not circulated for public opinion at all, because the matter had been fully ventilated before by the appointment of this All-India Committee.

**Sir Cowasji Jehangir:** But you did receive some opinions. If the 1922 Bill was not circulated, what about the 1932 Bill?

**The Honourable Sir George Schuster:** The 1932 Bill was entirely different. I do not know what my friend refers to as regards the 1932 Bill. Is he referring to the point of discrimination?

**Sir Cowasji Jehangir:** No, not exactly that, I mean the whole thing combined?

**The Honourable Sir George Schuster:** It is just because the House was unwilling to accept the 1932 Bill that we have introduced this very modest measure, which is entirely different.

**Sir Cowasji Jehangir:** Entirely different?

**The Honourable Sir George Schuster:** Entirely different.

**Sir Cowasji Jehangir:** Thank you. Then it is so different that it is a completely new measure before this House?

**The Honourable Sir George Schuster:** It is a new measure undoubtedly.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Does the Honourable Mr. Jog want his amendment to be put to the vote?

**Mr. S. G. Jog:** Yes, Sir.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Mr. Jog's amendment is a further amendment to Mr. Jadhav's amendment.

The original question was:

"That the Bill further to amend the Indian Income-tax Act, 1922, for a certain purpose (Amendment of section 4), as reported by the Select Committee, be taken into consideration."

Since which an amendment has been moved by Mr. Jadhav:

"That the Bill, as reported by the Select Committee, be circulated for the purpose of eliciting opinion thereon by August 31st, 1933."

Since which a further amendment has been moved by Mr. Jog:

"That in Mr. Jadhav's amendment, for the words 'by August 31st, 1933' the following words be substituted 'including those overseas members of the British Empire trading with or making remittances to India on or before the 31st December, 1933'."

The question that I have to put is that that amendment of Mr. Jog be made to the amendment of Mr. Jadhav.

The motion was negatived.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question that I have now to put is:

"That the Bill, as reported by the Select Committee, be circulated for the purpose of eliciting opinion thereon by August 31st, 1933."

The motion was negatived.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty):  
6 P.M. Does the Honourable Member, Mr. Jog, want to move his  
second amendment for re-committal of the Bill to the Select  
Committee?

**Mr. S. G. Jog:** I would like to move it.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty):  
The Honourable Member might move it tomorrow, but the Chair cannot  
allow a further discussion on the merits of the original motion.

**Mr. S. G. Jog:** I will restrict myself only to that.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the  
11th April, 1938.

## APPENDIX I\*.

*Speech delivered in the vernacular by Mr. N. R. Gunjal, M.L.A., on the 27th March, 1933, on Mr. Ibrahim Ali Khan's motion for reducing income-tax on Rs. 1,000—1,500 incomes.*

**Mr. N. R. Gunjal** (Bombay Central Division : Non-Muhammadan Rural) : Sir, I support the amendment moved by my Honourable friend, Mr. Ibrahim Ali Khan, proposing the reduction of income-tax from four pies to two pies on incomes between Rs. 1,000 and Rs. 1,500. The Income-tax law is at present working very adversely to the interests of the petty businessmen, such as barbers, oilmen, etc. The Income-tax Officers are dealing severely with them and these businessmen have come to a very sad plight. If this amendment is accepted, it will go a long way in alleviating the condition of these poor men. I hope the amendment will meet with success.

## APPENDIX II†.

*Speech delivered in the vernacular by Mr. N. R. Gunjal, M.L.A., on the 1st April, 1933, on Mr. M. Maswood Ahmad's Resolution re release of Mahatma Gandhi and others.*

**Mr. N. R. Gunjal** (Bombay Central Division : Non-Muhammadan Rural) : I strongly support the motion moved by my Honourable friend, Mr. Maswood Ahmad, urging the release of Mahatma Gandhi and other political prisoners. The White Paper was discussed for three days. It has now become quite plain that, in the opinion of this House, the Press and the leaders of the people, it is useless and worthy only of a waste-paper basket. The Congress leaders wanted to hold a session of the Congress at Calcutta to consider the new Constitution that is in the making. And without declaring that body as unlawful, Government arrested the Congress President, Pandit Madan Mohan Malaviya and patriots like Mr. Aney, and put an obstacle in the way of their deliberations. It would not be far from truth if one were to say that Government have become bankrupt in statesmanship. Repression, turning down all principles of morality and conscience, is simply exasperating and gives a rude shock to the feelings of the youth of the country. It is likely to drive their minds towards violence.

Sir, Mahatma Gandhi is the advocate of non-violence and it is due to his cult that people have remained non-violent. Although he did not take part in the First Round Table Conference, he had all along a feeling of bringing about a compromise between the Congress and the Government. The Gandhi-Irwin Pact is the instance in point. The correspondence on the subject has already been published.

Sir, the present attitude of Government of not releasing Mahatma Gandhi and other Congress leaders is certainly reprehensible. To release them is the straightforward course.

Sir, I have differences of opinion with Mahatma Gandhi on matters social and religious, but none whatever on political ones. Sir, I believe that the country has derived some benefit from Mahatma Gandhi's political activities. Sir, I hope Members of all creeds and faiths will support this motion.

\* Vide page 2680 of L. A. Debates dated the 27th March, 1933.

† Vide page 3053 of L. A. Debates dated the 1st April, 1933.



# LEGISLATIVE ASSEMBLY.

*Tuesday, 11th April, 1933.*

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The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) in the Chair.

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## SHORT NOTICE QUESTIONS AND ANSWERS.

LETTER ALLEGED TO HAVE BEEN WRITTEN BY MAHATMA GANDHI TO HIS EXCELLENCY THE VICEROY.

**Mr. B. Das:** (a) Has the attention of Government been drawn to the contents of a letter believed to have been written by Mahatma Gandhi to H. E. the Viceroy as published in the *National Call* of the 9th April, 1933, giving his views on the White Paper and the terms of Congress co-operation?

(b) Will Government be pleased to state whether the communication in question has been received, and, if so, what action Government have taken or propose to take on the offer made in Mahatmaji's letter?

(c) Will Government please lay on the table the whole correspondence preceding and following the letter in question?

(d) Are Government prepared to allow Mahatma Gandhi facilities to meet his Congress friends to enable him to express the authorised viewpoint of the Congress regarding the present constitutional proposals?

(e) Do Government propose to release Mahatma Gandhi and other Congress prisoners in view of the offer made by Mahatmaji in the letter in question?

Shall I put the second question also now?

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Does the Honourable the Home Member want to give a comprehensive answer to the two questions?

**The Honourable Sir Harry Haig:** I propose, Sir, to answer the two questions together.

LETTER ALLEGED TO HAVE BEEN WRITTEN BY MAHATMA GANDHI TO HIS EXCELLENCY THE VICEROY.

**Mr. B. Das:** (a) Has the attention of Government been drawn to the first page of the *Bambay Chronicle*, dated the 8th April (Saturday), which contains important extracts from a letter written by Mahatma Gandhi regarding the White Paper proposals?



(b) If so, will Government be pleased to state the date of the communication, the channel through which it was despatched and when it reached the addressee?

(c) Will Government be pleased to state their attitude in regard to the peace offer made by Mahatma Gandhi?

**The Honourable Sir Harry Haig:** With your permission, Sir, I will answer these two questions together. I shall deal only with the original article which appeared in the *Bombay Chronicle*, and not with summaries or reproductions of it which have appeared in other newspapers. The article stated that it had been decided to ask Mr. Gandhi to give the Viceroy a statement of his views on the present situation and the proposals which emerged from the Third Round Table Conference and are now embodied in the White Paper. The *Bombay Chronicle* stated that it was able to reveal to the public the material portions of the statement which Mr. Gandhi, in conformity with this request, addressed to the Viceroy.

There is no truth whatever in these statements. Neither His Excellency the Viceroy nor the Government of India asked Mr. Gandhi to give his views on the present situation or on the proposals which emerged from the Third Round Table Conference or on the White Paper. Nor did Mr. Gandhi, on his own initiative, address any such statement to His Excellency the Viceroy or the Government of India.

As the whole basis of the question is imaginary, I do not think it necessary to enter into the incidental points raised, but, in any case, I have nothing to add to the general statement of policy which I made in my speech in this House on the 1st April.

**Mr. S. G. Jog:** Will Government be pleased to make an inquiry as to how this report originated?

**The Honourable Sir Harry Haig:** I am afraid I cannot undertake to make any such inquiry.

**Mr. S. C. Mitra:** Have the Government of Bombay received any such letter?

**The Honourable Sir Harry Haig:** No, Sir. The Government of Bombay have received no such letter.

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#### MESSAGE FROM THE COUNCIL OF STATE.

**Secretary of the Assembly:** Sir, the following Message has been received from the Secretary of the Council of State:

"I am directed to inform you that the Council of State has, at its meeting held on the 10th April, 1933, agreed without any amendment to the following Bills which were passed by the Legislative Assembly at its meeting held on the 7th April, 1933, namely:

1. A Bill to supplement the provisions of the Bengal Public Security Act, 1932, the Bihar and Orissa Public Safety Act, 1933, the Bombay Special (Emergency) Powers Act, 1932, the United Provinces Special Powers Act, 1932, and the Punjab Criminal Law (Amendment) Act, 1932, for certain purposes;
2. A Bill further to amend the Auxiliary Forces Act, 1920, for certain purposes."

## THE INDIAN INCOME-TAX (AMENDMENT) BILL—*contd.*

### (AMENDMENT OF SECTION 4.)

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The House will now resume consideration of the Indian Income-tax (Amendment) Bill (Amendment of section 4).

**Mr. S. G. Jog** (Berar Representative): Sir, I rise to move:

"That the Bill, as reported by the Select Committee, be recommitted to the Select Committee with respect to clause 2 (b) thereof, and the amendment made by it."

Sir, yesterday when I moved my amendment No. 2, a friend of mine on this side of the House, Mr. Biswas, charged us with following dilatory tactics. I must put in a strong protest against that insinuation.

In placing my amendment before the House, I must make it clear that it makes no reflection in any way on the members of the Select Committee. I have no mind to cast any reflection or aspersion on the Honourable Members who formed that Committee. I find, however, that the way in which the business of that Committee was done was far from satisfactory. After the labours of that Committee on one day when the members were all tired just at about six o'clock they met and I believe they were not in a mood after the long discussion of the White Paper to consider the matter exhaustively. I think all the members that constituted that Committee did not take part in it, and very few people were able to attend. They had a very short sitting on one day, and the second time also they had a very short sitting. Thus considering the far-reaching effects of this Bill, the discussions they had were of a very slipshod nature. I am very much doubtful whether all the necessary materials for coming to a conclusion were placed before them. Now, this question had been discussed in the year 1922 in a Joint Committee of which Sir Malcolm Hailey was a member and they had long discussions. And this Committee is still handicapped by the fact that this measure was never circulated for eliciting public opinion; nor did the Government take any action in their executive capacity to circulate the Bill for eliciting public opinion,—or the opinions of the business concerns and of those affected by it and no material was placed before this Committee by which they could form an accurate judgment on the several points involved. If the Government had in fact in their possession any of the views of these business concerns or of the Provincial Governments, may I ask the Member in charge whether any such materials were placed before the Committee? Were all the materials, that were necessary to come to a correct conclusion, placed before this Committee? It was brought out that the important question of agricultural incomes had escaped the notice of all the members,—so much so that another reference was made to the Select Committee. It is just possible that many other points must have escaped the notice of this Committee judging from the way in which things were done. What I mean to say is that the

[Mr. S. G. Jog.]

subject is such that it should be very carefully considered. It is not a question of assessing the rich or assessing the poor. It is a principle of taxation. Whether you tax the rich or the poor, you must do so after due deliberation and after full inquiry. That is the principle that should be observed in the case of taxation irrespective of the fact whether the people taxed are rich or poor. As I understand it, the object of the Select Committee is to save the time of the House, but they have not been able to succeed in clearing the issues and settling some good principles. They have not come before the House with some settled points. When the matter was being discussed yesterday, we found that our Honourable friend, Mr. Jadhav, had many grave doubts and they were not satisfied. Also my Honourable friend, Sir Cowasji Jehangir, had to rise up in his seat frequently and made interruptions and interjections in order to have certain points cleared up by the Honourable the Finance Member. The Select Committee had a little discussion and they have not been able to form their judgment. It will be seen from their report that they are still unconvinced that they have come to a final decision. Sir, the measure considerably encroaches upon the incomes in Indian States. It also encroaches upon the income derived in foreign territories and there is no material to show whether all these people were consulted before coming to that decision. It involves the question of double taxation in cases where the Indian States are concerned. It involves the question of the agricultural income, as to how it is to be treated and what sort of provision is to be made. It also involves the question as to what is to be done in the case of partnerships and how they are to be treated and what provisions are to be made in this behalf. What I mean to say is that there are many questions which have been lost sight of probably in this hurry or because proper material was not placed before the Committee. What I want to say is that nothing will be lost if this Committee again goes into the question and submits fresh proposals before this House. That is the only object in moving this amendment. Sir, I submit that a delay of two or three months or a little more will not considerably affect the situation. What I submit is that the same thing may go again before the same Select Committee so that they may thresh out the whole thing, have the doubts cleared up and then come before the House. From the report of the Select Committee it will be seen that instead of clearing and clarifying the situation, they have made the confusion worse confounded with the result that every member of the Select Committee is dissatisfied.

**Mr. N. M. Joshi:** Why do you want the same Select Committee, then?

**Mr. S. G. Jog:** I do not want to cast any aspersions on the members of the Select Committee. Probably they were handicapped on account of not sufficient material being placed before them. So I do not want to show my diffidence of this Committee. Probably for some reason or other they could not give proper thought to the matter. I am told that some of the members representing the land-holders group have not been able to represent their claims. I submit, therefore, that my motion should be treated not as a dilatory motion, but as a motion which seeks more satisfaction and wants to arrive at a more satisfactory settlement. With these words, Sir, I move my amendment.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty):  
Amendment moved:

1 "That the Bill, as reported by the Select Committee, be recommitted to the Select Committee with respect to clause 2 (b) thereof, and the amendment made by it."

**Mr. O. C. Biswas** (Calcutta: Non-Muhammadian Urban): Sir, I said yesterday that the motion for circulation was a dilatory motion, and would repeat the same charge today in respect of the motion which my Honourable friend has just made. My Honourable friend has blamed the members of the Select Committee. Possibly they deserve blame to some extent; but my friend himself is not free from blame altogether. He has made a speech suggesting that the whole matter should go to the Select Committee again, and he has spoken about agricultural income and other points which, according to him, had not been taken into consideration by the members of the Select Committee. But what is the amendment that he has moved now? He does not want that the whole Bill be recommitted to the Select Committee, but only that the Bill be re-committed to the Select Committee with respect to clause 2 (b), that is to say, so far only as the question of the deletion of the proviso regarding the time-limit is concerned. Sir, I maintain that it would be a libel on such eminent protagonists of vested interests as Sir Hari Singh Gour and Sir Cowasji Jehangir to suggest that so far as that aspect of the matter was concerned, all the materials had not been placed, and placed very fully and vigorously, before the Select Committee. I could understand if the motion was that the whole Bill be referred back to the Select Committee to reconsider points which had not been considered properly, or at all, such as, agricultural income and other matters. But that is not his motion. His motion is to save the capitalists from the risk of removing the time limit,—it is that the Bill should be sent back to the Select Committee only in so far as that aspect of the matter is concerned. Sir, I do not think any case has been made out for that motion. It only means that the whole Bill will be held up, and we shall not be able to remove a glaring anomaly in the present fiscal system. No useful purpose will be served by keeping the Bill pending for three or four months and then taking it up in the Simla Session. I say, therefore, once again that it is nothing but a dilatory motion, and ought to share the same fate as did the other motion of the Honourable Member.

**Sir Cowasji Jehangir** (Bombay City: Non-Muhammadian Urban): Mr. President, one of the charges made by Mr. Jog was that the Committee did not do their work properly. That charge may be justified or may not be justified, but if there is anybody in this Honourable House who has no right to criticise the Select Committee, I say, with due deference to my Honourable friend who has just sat down that it is Mr. Biswas. For, his speech of yesterday clearly showed that he did not understand the Income-tax Act at all, as was pointed out by my Honourable friend, Mr. Sen. Therefore, any criticism coming from him will not, I think, carry any very great weight. The point is that if this Bill is re-committed to the Select Committee and if that Committee can get the opinions of the public who are really affected by this Bill, it will be a measure that will be of considerable use to the Honourable House.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): But the amendment of the Honourable Member is only for the re-committal of the Bill with reference to clause 2 (b), and not the whole Bill.

**Sir Cowasji Jehangir** : That is the operative clause of the whole Bill and that is the clause which we are going to criticise in a very short time. Therefore, if we got opinions on that one clause, it would serve a useful purpose. I honestly believe that the House is not aware of the far-reaching effects of this one simple clause, and no words of ours may convince it unless they see written opinions in front of them from Associations and individuals who are in a better position to express opinions than anybody in this Honourable House. There are interests that are involved which are not represented at all in this House. There are Englishmen affected by this clause who are not represented on the European Benches. There are Indians resident in India who are affected, but who are not represented here. Therefore, I have always thought and maintained that there could be no harm in a little delay. The House would then be considering the question, if I may say so, with their eyes wide open. They are now considering it with one eye closed. Sir, as far as the Select Committee was concerned, when a good number of the members,—half of them,—became aware of this position, they did desire that this Bill should be circulated for opinion and they actually desired to move, or make such a suggestion, in the body of the report. But rightly or wrongly it was,—I think rightly,—overruled as out of order by the Chairman. Therefore, those who were of that opinion had no other alternative but to write a dissenting minute and follow that dissenting minute up in this House by an amendment. That is finished. This amendment does give the Committee an opportunity of doing that and placing all those opinions before this House within three or four months. That is the only point in the amendment that has been moved by my Honourable friend, Mr. Jog.

**Mr. Muhammad Muazzam Sahib Bahadur** (North Madras: Muhammadan): Sir, the Bill as framed seeks to amend one section only of the Indian Income-tax Act and that is section 4. That section reads as follows :

“Save as hereinafter provided, this Act shall apply to all income, profits or gains, as described or comprised in section 6, from whatever source derived, accruing, or arising, or received in British India, or deemed under the provisions of this Act to accrue, or arise, or to be received in British India.”

And section 6 which is referred to in this section indicates the several heads which are chargeable to income-tax, that is to say, salaries, interest on securities, property, business, professional earnings and other sources. Sub-section (2) of section 4, with which we are immediately concerned, reads as follows :

“Profits or gains of a business accruing or arising without British India to a person resident in British India shall, if they are received in or brought into British India, be deemed to have accrued or arisen in British India and to be profits and gains of the year in which they are so received or brought notwithstanding the fact that they did not so accrue or arise in that year, provided that they are so received or brought in within three years of the end of the year in which they accrued or arose.”

Now, Sir, the amending motion which has been moved by my Honourable friend, Mr. Jog, is to the effect that the Bill, so far as it concerns clause 2(1) which I have just read, be re-committed to the Select Committee. Sir, this Bill has been before the public for the last seven

months and, quite apart from that, I really do not see what the Select Committee would be able to do in addition to what they have already done. As a matter of fact, this section does not affect residents of British India trading in British India, nor does it affect residents of Indian States trading in British India. It affects residents of British India trading in the Indian States or trading overseas. And it directs that the moment incomes made outside British India are received in British India, that moment they will be chargeable to income-tax. Sir, under the ordinary law of every country the greatest latitude is given to a person for investing his monies in any way he likes, whether in the country where he lives or outside it. This Bill no doubt seeks to curtail that power which every individual has. But if we look to the laws which govern other countries in the matter of income-tax, England for instance, we find that the law is exactly similar to what is sought to be made by this Bill. An Englishman is liable to pay income-tax on profits earned outside the British Isles, and what the present Bill seeks to do is to bring the Indian law more or less into line with the existing English law, and I think that is a very reasonable proposition. But it seems to me that what pinches most Honourable Members on this side is the fact that by taking away the provision which begins with "provided" in subsection (2) of section 4 and proceeds right up to the end of that subsection, a distinction is sought to be made between those persons who can afford to leave their earnings made outside British India for as many years as possible; that is to say, for persons in British India, for persons permanently resident in British India, this Bill attempts to place them on a different footing from the temporary resident in British India. In other words, I really believe that Sir Cowasji Jehangir thinks that if he invests his money in any of the English Banks he would be liable to pay income-tax on the interest he would draw on his accumulated savings while the European citizen in this country would not have the necessity of drawing upon these earnings or getting them into British India. That, I think, is the sole cause of these dilatory motions or whatever my friends like to call them. If, as suggested by Sir Cowasji Jehangir and Sir Hari Singh Gour, this Bill perpetuates the discrimination which was said to be made between Europeans and Indians in this country, then, I submit, Sir, it is a matter which does deserve the very careful consideration of this House. If that is not the object of this Bill, I do not see any reason why this Bill should be re-committed to Select Committee.

**Dr. Ziauddin Ahmad** (United Provinces Southern Divisions: Muhamadan Rural): Sir, I would just like to draw the attention of the House to one or two points in connection with this Bill. It was pointed out that this Bill is intended to serve two purposes: firstly, it intends to stop the flight of capital from India to foreign countries and, secondly, it is also a revenue yielding measure. I say that both these purposes will not be achieved and it could be achieved in a better measure to which I shall come later on.

In the first place, about flight of capital. I would have certainly supported this particular measure had there been no loan taken by the Government of India in sterling outside India, and we know very well that quite about one-third of the sterling loan which India borrowed in foreign countries is subscribed by Indians themselves. If we are to pass a measure like this, the result will be that the sterling loans will not be subscribed by Indians and that they will be subscribed by foreigners. It may lead

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to the rise of rate of interest. Therefore, we ought to see that we should have no sterling loans at all outside India, but we should have loans only inside the country and then we will be justified in bringing a measure of this kind. My Honourable friend, Mr. Ranga Iyer, yesterday made a particular suggestion, but he entirely forgot the most important thing that India floats sterling loans and we ought to encourage the Indian capitalists to take this particular loan and the greater we subscribed the greater will be the security of the Indian finance as far as the whole world is concerned. Therefore, to any one who supports the argument that the object of this Bill is to stop flight of capital from India, I would certainly emphasise that the first step they ought to take is to float the loan only in India and see that no loan is floated outside India, then he will be justified to bring forward this particular argument.

The second thing is about revenue. I think the principle to obtain revenue is that any money, whether in India or outside India, should be taxable. That is a reasonable proposal, but it is unfair that you tax only the persons who are residing in India and do not tax the persons who do not reside in this particular country. We should tax every amount paid from the Indian Exchequer. Had this proposal been before us, I would have certainly welcomed it. But what is really intended in this Bill is to tax the Indians and not to tax the foreigners. This really means that the Indians should withdraw their capital in sterling loans, and withdraw altogether from sterling investments, and if the Indians do not invest their capital outside India, then what would be the credit of the country as a whole? The Honourable the Finance Member will probably admit that the investments by private individuals in foreign countries leads to sound finance of the country and if all this money is withdrawn by these artificial methods which the Honourable the Finance Member is proposing, I may say that our credit abroad will be very much lowered. I take the opposite view. It could not be a preposterous proposition if we give a bounty to all these persons who invest the money in sterling securities, so that we may be able to increase our credit outside India. We should give premium and not discount the Indian investors of sterling loans.

The second point which I like to point out is the distinction between British India and the Indian States. Now, that is a very ticklish point in this whole Bill. There are a large number of people who have got their houses both in India and in Indian States. They carry on trade all over the world, not only in British India or Indian India, but in several countries outside India. Now, these people have got their headquarters either in Bombay, Calcutta, Karachi or Ahmedabad and their second home is in the Indian States. The moment we pass the Bill, what will happen? They will transfer their headquarters from British India to the Indian States. This reminds me of what actually happened when I was in Cambridge. There was an undergraduate riding a bicycle, with a gown in his arm and with a cap on his head and a cigarette in his mouth. Then the Proctor came and fined him 7s. 6d. for riding a bicycle in academic costume, he was fined again 7s. 6d. for carrying his gown on his shoulder instead of wearing it. He was also smoking, and for that also he was fined another 7s. 6d. while in academic costume. He was fined three times 7s. 6d. for riding a bicycle in academic costume, for taking the gown on his arm and also for smoking while in academic costume; but the undergraduate

was a clever financier, he took out from his head the academic cap and said that he was no longer in academic costume and thus escaped the three fines. The same thing would happen with all these gentlemen on whom these taxes are going to be levied. They will have to transfer their centre of business from Bombay or Calcutta to some place in Kathiawar or Malwa. They only remove their signboard in order to avoid payment of income-tax like the famous undergraduate of Cambridge who was able to save the payment of fine of 22s. 6d. The same thing would happen with most of these firms who would transfer their signboards, and their addresses on their note-papers will be changed. So I am afraid that all the points which the Honourable Member has in his mind would be lost; they would not be achieved. The credit of India will be diminished, the people will not be encouraged to invest in sterling loan which they ought to be encouraged, and we all will lead to complications as far as Indian States are concerned. With these words, Sir, I support the motion.

**The Honourable Sir George Schuster** (Finance Member): Sir, I do not propose to follow my Honourable friend, Dr. Ziauddin, in his excursion through that wonderland where he so often takes us. I have often wondered, Sir, what the financial administration of this country would be like if my Honourable friend had a free hand in the matter. I suggest that when he comes forward with his proposal for giving a bonus to everybody who invests his money abroad, that will, I am afraid, be the last day for sound finance in India,—though I have little doubt that it will be a very popular day in Bombay.

Sir, the motion before the House, I venture to submit, is nothing more than a request to ask the House to reconsider the decision which it took yesterday. My Honourable friend, Sir Cowasji Jehangir, had made this very clear, because he said that reconsideration in Select Committee will be of no value, unless it is accompanied by solicitation of opinion from all over the country; so that in effect the House is being asked to go back on what the House decided yesterday. I would further submit that my Honourable friend, Mr. Jog, in making this motion has arrogated to himself the task of censuring the whole House. He has censured the House for appointing a Committee composed of the members who wrote this report; he has censured those members for failing to ask for the necessary information; he has censured the Government for not volunteering to provide that information. But I hardly think that the House will take my Honourable friend's case seriously when they realise how extremely ignorant he is of what actually took place in the Select Committee. He described to the House a scene taking place at 6 o'clock in the evening after a long day's debate in the Assembly, when the whole of this matter was disposed of. As a matter of fact, the consideration which the Committee gave to this measure took place at a meeting several weeks ago held at 11 o'clock on a Saturday morning, when all the members of the Committee were in full vigour and in possession of all their senses. The meeting which took place at 6 o'clock in the evening was merely a meeting to consider the report which had been drafted to give effect to the conclusions reached at the earlier meeting. Therefore, on that particular point, my Honourable friend has completely misled the House.

I think really that is all that I need submit to the House. This matter has been carefully considered and the House showed clearly, by its verdict of yesterday, that they did not deem it necessary to ask again for



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opinions and I venture to say that to put a motion of this kind before the House is nothing less than an insult to the House itself.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That the Bill, as reported by the Select Committee, be recommitted to the Select Committee with respect to clause 2 (b) thereof, and the amendment made by it."

The motion was negatived.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That the Bill further to amend the Indian Income-tax Act, 1922, for a certain purpose (Amendment of section 4), as reported by the Select Committee, be taken into consideration."

The motion was adopted.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is that clause 2 stand part of the Bill. Mr. Ramakrishna Reddi.

**Sir Cowasji Jehangir:** May I point out, Sir, that Mr. Patil's amendment to delete clause 2(b) should be the first amendment and that the others are more or less consequential to that? If that is lost, then the other amendments will be really of some value to the House. If this is carried, then the other amendments need not be put.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): It is the practice of the House to take the amendments in sequence, unless there is reason to adopt a contrary procedure. The amendments of the Honourable Member, Mr. Reddi, are to sub-clause (a) of clause 2, which do not affect sub-clause (b). Therefore, it is quite in order to take his amendments first.

**Mr. T. N. Ramakrishna Reddi** (Madras ceded Districts and Chittoor: Non-Muhammaḍan Rural): Mr. President, I beg to move the following amendment to sub-clause (a) of clause 2 which stands in my name. I have got another amendment which has been arrived at after consultation with Government and that will be only with reference to the *Proviso* to sub-clause (c) . . . . .

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): What amendment is the Honourable Member moving?

**Mr. T. N. Ramakrishna Reddi:** That is about agricultural income.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Honourable Mr. Vachha will kindly explain what is the sequence of these amendments of Mr. Reddi, to enable the Chair to decide which amendment should be taken up first. The Honourable Member, Mr. Reddi, has evidently drafted his amendment in consultation with the Government Members.

**Mr. D. G. Mitchell** (Secretary, Legislative Department): Sir, Mr. Reddi withdraws amendments Nos. 4 and 5 and substitutes an amendment which would be an amendment to clause 2(c).

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Honourable Member then does not move amendments Nos. 4 and 5?

**Mr. T. N. Ramakrishna Reddi**: No, Sir, as I am told that it is technically wrong.

**Rao Bahadur B. L. Patil** (Bombay Southern Division: Non-Muhammadan, Rural): Sir, I rise to move the amendment that stands in my name.

“That sub-clause (b) of clause 2 of the Bill be omitted.”

Before I come to deal with my amendment, I feel that I must thank the Honourable the Finance Member for the soft corner he has with regard to agricultural income. But yesterday when I heard his reply, I had to change my mind and I am still doubtful whether the expression of my thankfulness to him is really right, because in his reply yesterday he said something axiomatic, something very doubtful. He said that Government would help only if they found that there was no decrease in the liability in paying the tax, but not otherwise. However that may be, for the time being, I still hope that my thanks are due to him for his kind expression with regard to agricultural income. Most of the arguments have been already advanced by the Honourable Members who spoke yesterday and I, therefore, simply propose to state my grounds categorically. My first ground in support of my amendment is that as my Honourable friend, Dr. Ziauddin, said, the Honourable the Finance Member would have taken care to increase the finances of this country by taxing incomes that are now escaping. He referred to sterling securities, I think, and also to pensions paid abroad. I am very thankful to the Honourable the Finance Member for his advice to this House when he said that the object of this Bill was to have an equitable distribution of the burdens on the taxpayer; but let me remind him what the Government of India did in November, 1931, when in the special Finance Bill the income-tax proposals were included. What was the burden which the Government of India placed on the Government officials who drew fat salaries? If Honourable Members will look up into the proposals made by the Government of India then and certified by His Excellency the Governor General, they will be convinced that my Honourable friend, the Finance Member, is shedding crocodile tears today.

Then, Sir, the next ground for my amendment is that the proposed amendment in the Bill would lead to double taxation in cases where there is no provision for relief. We have one section in the whole of the Act, namely, section 49, which provides for refunds by way of relief in cases where the income is subjected to income-tax in Great Britain; but with regard to incomes that may be taxed in other countries, there are no provisions in the existing Act. That is one objection to the proposed amendment of the Act.

Then, Sir, my next ground is that the proposed amendment of the present Act would lead to confusion. In the first place, it will be very difficult to distinguish income from capital. From what I heard from

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the Honourable the Finance Member yesterday, I have come to the conclusion that hereafter everything will be income and no capital on the face of this earth. That is exactly what his argument comes to. We have once for all accepted in our system of income-tax that we must place a barrier between income and capital. That is an established principle, and if that is to be observed, we must draw the line somewhere. When the rule of three years was provided in the Act of 1922, then they adopted a golden mean, and that was this three years' rule. It will also cause a lot of confusion; and questions as to when the income arose, when and where it was received, and so on, will crop up.

Then, my last ground is that this would act as a clog on the development of foreign trade. Under the existing circumstances I do not agree with those who hold that the flight of capital from this country is in any way detrimental to the interests of this country. In my humble opinion, there is sufficient money in this country, but it is not properly distributed and organized. My friend, Mr. Ranga Iyer, said yesterday that money was required in this country for promoting industries and, therefore, it was very necessary that the flight of money should be prevented. But, Sir, the industries of this country are lagging behind, not because there is no money in the country, but because Government are not sympathetic. Let us see what the Department of Industries is doing to promote and develop indigenous industries. It is a well-known fact that our industries are in a stagnant condition and the Department of Industries is in a lethargic stage. With these words, Sir, I move my amendment.

**Sir Cawasji Jehangir:** Mr. President, yesterday, we were discussing this Bill late in the evening when, according to some Honourable Members, the House was tired. Now, it is only twelve o'clock, and I hope that not only Honourable Members on this side of the House are in their right senses, but I sincerely trust that some of the Members on the Government Benches are also in their right senses this morning. My friend, the Finance Member, was quite right when he said that the Select Committee did not meet in the evening, and it met at eleven o'clock in the morning; and it was because we met at eleven o'clock in the morning, that half the Committee wrote a dissenting minute; if the Committee had met late in the evening, perhaps my friend, with his usual persuasion, would have got a big majority report. Now, Sir, it is twelve o'clock, and Honourable Members are all wide awake.

This amendment, Sir, goes to the very root of the Bill. The present law is that incomes from business accruing abroad, if brought into this country, that is India, within three years of the date they accrued, are liable to income-tax, but if those incomes are brought into India three years after they have accrued, they are not liable to income-tax. Incomes from investments in Government securities, etc., are not liable to income-tax if they accrue outside British India regardless of the fact when they are brought into British India. That is the present law. This amendment will have the effect of placing incomes from business and incomes from investments on the same footing, that is to say, neither incomes from

investments nor incomes from business will be liable to income-tax if brought into India three years after the date they accrue. That will be the effect of this amendment if carried, and I strongly support it for more than one reason . . . . .

**An Honourable Member:** I could not follow your last sentence.

**Sir Cowasji Jehangir:** The effect of this amendment will be that incomes accruing outside India, both from business as well as from investments, will not be liable to income-tax if brought into this country later than three years after they accrue, but if they are brought into this country within three years of their accruing, they will be liable to income-tax.

**Mr. Muhammad Muazzam Sahib Bahadur:** That is under the section as it stands.

**Sir Cowasji Jehangir:** No, under the amendment as moved by Mr. Patil. Under the law, as it stands, there is a difference between incomes from business and income from investments. Incomes from investments are free of income-tax just now; incomes from business are liable to income-tax if brought into this country within three years. Now, this amendment will have the effect of placing both classes of incomes on the same basis; that is to say, they are liable to income-tax if brought into India within three years. That is the effect of my friend's amendment. Now, Sir, my friend, the Finance Member, both this year and last year, made a great deal of the argument that the law as it stands today greatly influences peoples' minds in sending money abroad. I venture to suggest

that that argument was thrashed out last year and it was concluded that the difference was only a question of half per cent. Income-tax means a decrease in your return by half per cent.; and, therefore, if you invest in sterling loan in England today, you get the advantage of about half per cent., because it is free of income-tax. It is a well known fact. Now, for the sake of this half per cent., is it seriously contended that people in India will send their money abroad? They send their money abroad for other reasons. They send their money abroad, firstly, for better interest if they can get it, and the difference will have to be more than half per cent. to tempt them. Secondly, they send their money abroad for safety, if they have no confidence in the securities of this country. Thirdly, they send their money abroad for the purpose of business and I do contend that this Bill will have no effect whatsoever upon people sending their money abroad and it is all moonshine to contend in this Honourable House that this Bill in any way will prevent money going abroad. The best that can be said is that it offers a slight temptation to people to send their money abroad because, from investments in Government paper, they get half per cent. more. Then, my Honourable friend did not point out that in some countries the Indian investor will have to pay double income-tax if this Bill is passed. He will have to pay income-tax in the country in which the money is invested and he will have to pay income-tax in India when the income is brought here. Is there any provision in the Bill by which he gets any relief? I know that there are certain countries which have reciprocal

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arrangements whereby some relief is given, but they are few. There are many countries, in which the Indian traders at present are flourishing, with which there is no reciprocity and they will be liable to double income-tax. That is a point that my Honourable friend did not bring forward in his opening remarks. I am not complaining, because it is not for him to bring out points that go against him; but there was not a word said about this.

Now, Sir, my Honourable friend, in his opening remarks, made a great deal about equitable taxation and the burden of taxation falling fairly and squarely on all classes of people in this country—an excellent maxim—that all should pay towards the State and none should be let off, and if any are left off, they ought to be the poorest in the country. But, I venture to suggest that this maxim is not being carried out to its logical conclusion by the Honourable the Finance Member himself. This Bill will bring in a few lakhs. We are not told how many. The Finance Member does not know himself. He is not able to make any calculations. But if there is to be equal and fair distribution of taxation, may I ask him, why a source, which can easily be tapped from which he can get lakhs definitely, with ease, with certainty and with not the slightest chance of evasion, has not been tapped? I mean pensions of British officers retiring in England. Here is the Indian officer in India whose pension is liable to income-tax. The British officer, when he retires in England, although he earns his pension in this country by work in this country, is paid by this country, is free from Indian income-tax. He does not contribute a single rupee to the taxation of this country. My Honourable friend, the Finance Member, has been preaching all yesterday about equity and fair and equal distribution of taxation.

**An Honourable Member:** Tax that also.

**Sir Cowasji Jehangir:** Quite right, but the Honourable the Finance Member prevents it.

**Mr. Rahimtoola M. Chinoy** (Bombay City: Muhammadan Urban): Is not that pension liable to tax in England?

**Sir Cowasji Jehangir:** But that is no reason why India should be deprived of her fair share. That is the point. India gets nothing, while, under this Bill, people, who invest their money in certain parts of the world, are to be taxed both in that country and in India. Sir, it is all very well to talk about the equitable distribution of taxation; but when one talks too loudly and too long on such principles, one may get into difficulties.

Now, Sir, I am coming to a very important point. Last year's Bill, as I have already stated, as presented to this House, discriminated between Englishmen and Indians. It provided that anybody domiciled in this country, who had investments abroad, would be taxed on his income regardless of whether the income accrued inside India or outside India. The result was that, no Englishman or very very few, being domiciled in this country,—all their incomes accruing outside India—would not have

been taxed, while all Indians who are domiciled in this country would be taxed on incomes accruing outside India. That was forcibly brought to the attention of my Honourable friend, the Finance Member. It raised little opposition from the European Benches; but they realised that it was discrimination pure and simple and the air at that time was full of discrimination against Englishmen in India. We heard of it here. We heard of it in England and not a single Honourable Member of the European Group could face the accusation of supporting a Bill brought before this Honourable House which deliberately tried to discriminate. What did my friend, the Finance Member, do? He surrendered and rightly so. He completely surrendered at the very first reading and rightly did so and I admire him for what he did. I praise him for it. He said "I will have no distinction between Englishmen and Indians in India" and he immediately volunteered to change the Bill and amend it in the Select Committee. The result was, Mr. President, that the whole of the European Group were with us and to a man they walked into the lobby with us. Circumstances have changed. This Bill now discriminates between Indians and Englishmen still, but in an indirect manner, a more subtle manner. It is not direct discrimination, as was discussed last year, but it results in discrimination and I will tell you why and how. You take an Indian and an Englishman living in this country who each saves Rs. 10,000 and remits that amount to England. They pay their income-tax on it in India. Then they both remit it to England—both the Indian and the Englishman. Then that Rs. 10,000 accumulates at compound interest, because the income is not brought out to India. It remains there. The Indian must bring out that Rs. 10,000 *plus* interest at compound interest accumulated in England or in any other part of the world outside British India, back to this country.

#### **The Honourable Sir George Schuster: Why?**

**Sir Cowasji Jehangir:** For his own use, because he has to live in this country and die in this country, as his children never hope or never wish to go out of this country. They will remain here for all time, and if they take their money abroad, they take it abroad for reasons I have explained, with the intention always of bringing it back to this country. As for the Englishman, that Rs. 10,000 increases at compound interest, ready for him, without having been subjected to any income-tax, either in this country or in England, ready and waiting for him when he retires back to England, and it is then his capital. The Indian can never get that advantage now. Why? Because the Finance Member wants this House to decide that that accumulated interest will always remain income, liable to income-tax whenever it is brought back to this country, even if it be 20 or 30 years hence. Sir, this is discrimination, and not one of my friends of the European Group will be affected by this Bill. Not one of them, I venture to say, who sends any money out of this country to England out of his savings here, ever hopes or expects to use it in this country. They are laying it by for the happy days which they hope to have when they return to their own country. The position of the Indian, however, is very different. There is this subtle effect in this Bill of a discriminatory nature, and would you for a minute believe it if the Englishman's income in England was going to be taxed by this Bill in any way, we would not have got the wholehearted support of the European

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Group. Last year, let it be said to their credit, when there was discrimination, they refused to have it. When that discrimination was taken away, they still refused to have the Bill. This year they wavered. They had a right to send their money to England and allow it to be accumulated there without its being taxed either in England or in India. It was legitimate that they should go back to England and enjoy that accumulated compound interest without having been subjected to any income-tax! As for the Indian, the very few Indians who do send money to England, it was a different matter! They should be liable to income-tax if they ever brought back their money to this country. Now, I will tell you in a nutshell the difference between the Bill of last year and that of this year. If it were frankly stated from the Government Benches, it would be stated as follows. Last year, they would say: "You refused to allow us to tax incomes accruing outside British India. This year, by this Bill, we will not allow you Indians to use or to enjoy any of that income if you bring it back to India, without paying income-tax. We won't let you do it. Englishmen, of course, do not want to bring it back to this country: they live on their earnings here, but you fellows, we will see that you pay income-tax or do not bring it back at all." Now, they know very well that an Indian can never always keep his money abroad. After five or ten years, he must bring it back to this country. That is the subtle distinction.

**Mr. F. E. James** (Madras: European): He escapes income-tax!

**Sir Cowasji Jehangir:** If Mr. James had followed me, there is no temptation to send money to England or Europe or any other part of the world in order to save income-tax. It is only a question of a half per cent. Supposing he does, why should there be this distinction between Mr. James and anybody else? Why should you be allowed to keep it in England until you return without being subjected to income-tax, and why should I or my friend sending his money to England be told that we will have to pay income-tax if he wants to enjoy his income in his own country? Why this discrimination? I should think this is bad discrimination. There is no doubt about it, it is discrimination; and, mind you, when you talk of discrimination in the future, we are not only going to avoid direct discrimination against any Europeans or Muhammadans or others; the point will be judged from the effects of any measure; I admit this is not direct discrimination, it is indirect discrimination, but it has that effect and nobody can deny it. The only argument you can bring forward is that Englishmen in this country are, after all, birds of passage. They never intend to live and die in this country and, therefore, their circumstances and conditions are different to Indians, and you cannot have similar legislation for both. If that is really so and if that argument is to be brought up, then I venture to suggest that the bottom will be knocked out of the argument for "no discrimination against Europeans in India". The very foundation, the very basis of that argument—for no discrimination against Englishmen in India—with which I completely agree—is that they are residents of this country for the best part of their lives, that they are Indians, bound up with our happiness, with our woes and our troubles.

**Diwan Bahadur A. Ramaswami Mudaliar:** And with our taxes.

**Sir Cowasji Jehangir:** We want Englishmen in this country to share our happiness and also our troubles and tribulations. If, on the other hand, they take up the position that they are Englishmen, only resident in India for a few years, then I maintain that they themselves knock out the bottom of all argument for no discrimination against them, because they are residents of India. I trust, Sir, the European Group will pay a little more attention to this question than they have done and not treat it so lightly, because it is going to rebound upon them. Their vote today will be brought up against them on every possible and conceivable occasion.

**Mr. F. E. James:** Is that a threat?

**Sir Cowasji Jehangir:** It is not a threat, it is a reality and a fact. Sir, last year the position they took up was one for which all honour is due to them. Whether there was discrimination or not, they said they would not have it. This year they have taken up a different position. Let me tell them, it is not a threat. If they go on thinking as they do today and if they continue to have the same mentality as they have today, then they will knock out all the best arguments which we Indians can bring forward against any discrimination against Englishmen in India. Sir, I am talking mere facts; I am talking from past knowledge. Some of my Honourable friends on the European Benches may not have the experience that I have; they may be new to this House; but, believe me, they do not know their own interests. Sir, this amendment knocks out all discrimination; we are all on the same basis. Anybody bringing his income into this country three years after it accrues, is not liable to income-tax whether he is an Indian or an Englishman. If he brings it within three years, then he is liable to income-tax.

Now, Sir, I will anticipate an argument of my Honourable friend, the Finance Member, if he will forgive me, because I know he is going to make it and I shall not have an opportunity of speaking after him. It was an argument that he brought before the Select Committee, and, therefore, there can be no complaint if I put it before the House and reply to it. My Honourable friend's argument was that if we have a three-year limit, as we propose to have by this amendment, it will affect adversely the poor man. That is to say, the poor man who invests abroad may want to bring out his income every year and cannot afford to keep it abroad for three consecutive years until he gets exemption from income-tax. The rich man can afford to keep his income for three consecutive years abroad and make it free of income-tax. Now, Sir, there is only one class of persons in India which may be affected by this clause and that too indirectly. Very few Indians invest their money abroad who want the interest of it every year in this country for their own use in order to keep their body and soul together. There are very few such Indians. As I understand the position, they invest their money abroad either for security or for business. There are very few Indians who actually have to live in India on the income of their investments abroad and who want to bring it out for that purpose. It will affect a small number of Englishmen who are not represented in this House and whose interests have been completely forgotten by the European Group. They are young officers in the army—a very few of them,—who cannot live on the pay that they get in this country and whose pay is supplemented



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by private incomes in England. They go to the wall and my European friends have not the slightest desire to stand up and say a word in their favour. These men in the army do require a certain amount of money in addition to their pay which is sent out to them either by their guardians or parents or it may be from private incomes that they have of their own. Mostly it is the latter. They will certainly suffer by this three-year limit. I admit it. But they can be able to get round it. It is quite possible that they may be able to find ways and means of getting on in this country by other assistance for three years. Those are the only people I can think of amongst the middle class who will really be affected by this three-year limit. Of course, in England it may be a very much large class if such a rule applied there. Therefore, Mr. President, I personally cannot see any real reason for not having this three-year limit. I hope that this argument which my Honourable friend, the Finance Member, is sure to put forward will not sway the opinion of this Honourable House to any considerable extent.

Now, Sir, I will come back to the old question which is also affected by this amendment, namely, the difference between capital and income. It was this argument of the difference between capital and income which weighed so strongly with the Select Committee of 1922 and which made them put in this limit of three years whereby income after three years becomes capital. I do not know, Mr. President, if you were a Member of the House in 1922. (*Voices*: "No, no.") Were the Honourable Members of those days fools who did not know what they were doing? Let me say also that they were led by a Finance Member who today is one of the most distinguished public servants in this country, I mean Sir Malcolm Hailey. He saw the force of that argument. He may not have been a financier; he may have made mistakes; but he did see this question from a commonsense point of view. In no country in the world can you stipulate that your income shall go on accumulating at compound interest and it will be liable at all times to income-tax if you remove it from one place to another. There must be some time-limit when income becomes capital. That was what swayed their opinion and they have definitely reported to that effect in their Select Committee's report. I am not going to weary the House by reading it again unless somebody wants it. I read it when the Bill was introduced. We are now told that certain Provincial Governments had Committees and the Government of India also had a Committee and they have all recommended a more drastic change. But the Central Legislature and the Finance Members of those days, in their ignorance and stupidity, would not accept the verdict of Provincial Committees and the Central Committee. I have been reminded by my Honourable friend, the Finance Member, that I was a member of the Bombay Committee. So far as I recollect, I sat next to my friend, Mr. Vachha, on that Committee and it must be Mr. Vachha who must have turned up that report and placed it in the hands of the Finance Member as he had every right to do and as was his duty to do. So far as I recollect now—I have not been able to call for the papers,—that Committee sat somewhere in 1917 or 1918.

**Khan Bahadur J. B. Vachha** (Government of India: Nominated Official): No, it sat in 1921.

**Sir Cowasji Jehangir:** But in 1921 I was a Member of the Government and, therefore, I could not sit on the Committee in 1921. Perhaps it was at the beginning of 1921, but I have no recollection of that. And if I did agree, I have changed my mind now. I am wiser; the passage of time makes us wiser, and I am convinced that time will make us all wiser if this amendment is not passed.

Now, Sir, we did urge yesterday that we would like further opinions on this Bill. We did urge this House not to vote on this measure with one eye closed, but the House, in its wisdom, thought fit that we should go on. But I must say in passing that whatever arguments there may have been against a little delay, they were not very strongly placed before this House by my friend, the Finance Member. He had to fall back upon a slip of the tongue on the part of my friend, Sir Hari Singh Gour. Why, Sir, he even brought up an analogy between this Bill and the limit at which income-tax should be levied, Rs. 1,000 or 2,000. He actually said that if it is not necessary to get the opinions of the large number of people affected by a change in the limit from Rs. 2,000 to Rs. 1,000, why is it necessary to circulate this Bill for opinion because it affects a large number of people? Is there any analogy, Mr. President, between having a limit of Rs. 1,000 or Rs. 2,000 for the purpose of income-tax, and this Bill,—one subject threshed out in this House year after year, known to this House and to the country, and this Bill, the provisions of which are hardly known to Honourable Members of this House, far less to the public? Is there any analogy between the two? If my Honourable friend, the Finance Member, has to fall back upon arguments of this sort, he must have a bad case, and I trust he will be able to produce a better case against this amendment than merely twisting the tail of my Honourable friend, Sir Hari Singh Gour.

Now, Sir, there is one point that has been brought up by my Honourable friend, Dr. Ziauddin, which was brought up last year and about which my Honourable friend, the Finance Member, is an expert, the question of sterling loans. Everybody knows that this Bill will affect Indian investors in sterling loans most radically. Today all investors in Indian sterling loans resident in India get the full amount of the interest paid by Government. After the passing of this Bill, it will be subject to income-tax which will make a difference of  $\frac{1}{2}$  per cent.; and my Honourable friend, Diwan Bahadur Mudaliar, reminds me that the White Paper stipulates that the sterling loan shall not be subject to income-tax. Notwithstanding that, this Bill will have that effect today.

**The Honourable Sir George Schuster:** Sir, may I intervene just to explain the position? I think my Honourable friend is under a misapprehension or misleading the House in regard to that provision to which he referred or to which his Honourable friend from Madras referred him. I presume that he must have referred to the idea that the Government might pass legislation imposing a tax which would be deducted at the source on interest paid on sterling loans. If the Government of India were to do that, the effect would simply be that so far as a resident in London was concerned, instead of getting four per cent. on his money he would get  $3\frac{1}{2}$  per cent., if I adopt my Honourable friend's figure. That would be no benefit at all to the Government of India, because the Government of India would then have to issue their loans in London at a

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price appropriate to a  $3\frac{1}{2}$  per cent. return. They could get no benefit out of it at all and, therefore, to bring that argument up is actually, I think, if I may say so, to draw a red herring across the proper line of argument. My Honourable friend suggests that this measure would have the same effect. But this measure does not impose taxation on the interest from sterling loans as such, but merely says that interest from sterling loans that is brought into this country by a resident of this country shall be included in his taxable income.

**Sir Cowasji Jehangir:** I follow the Finance Member and I am thankful to him for the explanation. What the White Paper suggests is that no Indian income-tax shall be levied in England on sterling loans at the source, that is to say, an Englishman, resident in England, investing in sterling, shall not be liable to the Indian income-tax by any legislation in India. But this legislation will continue to have effect, namely, that the income brought out from sterling loans to India by Indians resident in India will be liable to income-tax. If that is the position, then my original argument was a good one that Indian investors in sterling will get  $\frac{1}{2}$  per cent. less than they are getting today. That may have a very serious effect upon the price of sterling securities, because today there is a large number of Indians who hold sterling securities. In the old days, these sterling securities were mostly in the hands of investors in England. The position is rapidly changing and it is to our advantage, Mr. President, that Indians should invest in sterling loans and buy up all these sterling loans which are now outside the country. It will solve a large number of political questions. Today most of our political difficulties, all these financial safeguards, or most of them, are due to the fact that the sterling loans are held by Englishmen in England and it is entirely to the interest of this country that the whole amount of that sterling loan should be bought up by Indians if that can be done, and that all future loans should be in India. And if once we can go to the British Government and say that their investing public has now no interest in our sterling loans or our Indian loans, then the position will be considerably clarified. That is well-known; I need not repeat that to the House. You, Mr. President, know that very well, and there are many in this House who know all the circumstances of the case. What these safeguards mean, what they were due to and how they arose. This Bill will go bang against that, and besides it, Mr. President, I do put forward a moral claim on behalf of Indians holding sterling loans. They bought those sterling loans under the impression that they were going to get a certain rate of interest which they are not going to get after this amendment, and I do not claim that Government have no right to tax them. but I do claim that, simply because they happen to be Indians, living in India, Government have no right at a stroke of the pen to take away half per cent from their interest. Men may have bought this sterling loan a year ago hoping to get a certain rate. By this Bill they will get a half per cent less. They bought it on the understanding that they will be able to bring the whole amount of their interest back to India without income-tax. It is a question worth considering. I know that the Honourable the Finance Member will say that the Government of India gave no guarantee that they would not raise the income-tax. I know that the Honourable the Finance Member will say

that the Government of India have given no guarantee that the income-tax will not be raised on all incomes derived from Government rupee paper, and that, if Government put up the income-tax and surcharges as they have done, and the incomes from those securities have been decreased, nobody has complained. But there is a difference between the two: one was liable to income-tax; the man who bought rupee paper knew that he bought it with a liability to pay income-tax to be increased to any limit.

**Diwan Bahadur Harbilas Sarda** (Ajmer-Merwara: General): In that case the investors in the sterling loan also should know that any time income-tax might be levied from them.

**Sir Cowasji Jehangir**: There is nothing of the sort. There was an understanding that no income-tax from the investors will be levied on it.

I admit that there is no legal obligation. Government have got to consider moral obligations just as much as legal obligations and that question of moral and legal obligation is being attended to, occupying the serious thoughts of many in England just now. My Honourable friend, the Finance Member, knows what I am alluding to. It is just as well that we attended to it in this country, because all our decisions and discussions have their repercussions. I am not going further into this question just now. Sir, I do trust that this Honourable House will give this amendment their very careful consideration, because I have shown to this House that there is discrimination. Wipe out that discrimination if you like. I am not here to claim any advantage or personal gain for any section of investors. I am prepared to admit in this Honourable House that I have a personal interest, but there are many things that come before the House in which one is personally interested. I tried to show this House that people invest outside India for business or for security. This amendment will relieve us from the anxiety of the injustice that we may be doing to subjects of the Indian States residing in India. There are thousands of them all over India. They will be greatly inconvenienced if this amendment is not accepted. There is no doubt about it in my mind. I have not got any brief for them. It is only right that their case should be brought to the attention of this House. There are hundreds of small bankers who are subjects of Indian States living permanently in India. There are Indians overseas who have to bring back parts of their income every year to India, not because they want to live on that money in India, but because they want to bring it to India for purposes of trade, by turning it into goods and sending it back overseas. All that will be liable to income-tax.

**The Honourable Sir Brojendra Mitter** (Law Member): Business income is liable to income-tax now, if it is brought in every year.

**Sir Cowasji Jehangir**: Not after three years. That was the confusion that the Honourable the Finance Member was making yesterday. Do not make that confusion. I am being accused of misleading the House. I am not misleading the House, I am giving them facts. Do not let me be led into misleading the House. Sir, they bring that income into this country after three years, convert it into goods and send it back to overseas wherever they may be. And they will not be liable to income-tax after the passing of the amendment of my Honourable friend, Mr. Patil.

**Mr. O. C. Biswas:** Why do you accept then even three years?

**Sir Cowasji Jehangir:** Because there should be a difference between income and capital. It is right that when income accrues, it will become liable to the tax immediately, but that limit of three years was placed in the Act by the Select Committee of 1922. That is the reason. Mr. Biswas would be wise if he tries to understand the Income-tax Act, and I think the less he spoke about it, the better. I am placing facts before this Honourable House, and if I am wrong, I am open to correction. This being the position, I do appeal to the Honourable House to consider twice before they vote, and if this amendment is rejected and if we are defeated, there will be hardship to many. My Honourable friend, the Finance Member, will be flooded with letters, I have no doubt, of protest as the Act begins to work and then they will begin to realise what has happened. But those protests will not fall within the purview of that Committee that is going to be appointed. That Committee is going to be appointed to look into one or two little grievances that my European friends may have, and I venture to suggest that those grievances, which they imagine they have, will not come within the purview of that Committee. If they accept this Bill, these injustices, as they call them, will be perpetuated. They have agreed to them, and the Honourable the Finance Member will be quite right to say: "You have agreed to the Bill: this is not an injustice: this is merely the effect of the Bill contemplated by us." I know the cases that they have in mind. They will not fall within the purview of the Committee. It is all eye-wash. Therefore, my Honourable friends may have their Committee: they are welcome to that; they may have their representatives on it, and I will enjoy seeing that Committee look into cases of injustice when they are brought to their attention. Nothing will delight me better than to read their report and find my Honourable friend, the Finance Member, saying: "This is not injustice; this is what I expected to do; I wanted to do it; and you agreed with me. I was ready to remedy an injustice—not this. You cannot call this injustice: I wanted to tax you and now you call that an injustice." That will be what is going to happen and I will be jolly pleased to see it. Because, after all, it may be ignorance or it may be that they have got into a generous mood, but I do want to protect my own countrymen who are trading overseas and the subjects of Indian States who will be greatly inconvenienced . . . .

**Mr. N. M. Joshi (Nominated Non-Official):** Do you represent British India or the Indian States?

**Sir Cowasji Jehangir:** I represent both: we are not here to do injustice to the subjects of Indian States who have been living in British India all their lives and who have helped to build up trade in British India. I know of many well-known subjects of Indian States who are well known commercial men in British India. They may even be voters in British India, but they are subjects of Indian States, and perhaps none of my Honourable friends of the European Group would know that they are subjects of Indian States although they may be dealing with them every day. But when it comes to interpreting the law, these men will understand the difference. There are thousands of them known to us; and are we not to protect their interests? Whose interests are we here to protect?

**Mr. N. M. Joshi:** British Indian interests.

**An Honourable Member:** We are here to protect Mr. Joshi's interests.

**Sir Cowasji Jehangir:** I am quite prepared to do that also. Under those circumstances, I am not going to prolong the agony any longer: it is five minutes to one: and I trust that my Honourable friends will give this matter very serious consideration before they vote.

**Sir Muhammad Yakub** (Rohilkund and Kumaon Divisions: Muhammadan Rural): Sir, my Honourable friend, Sir Cowasji Jehangir, started by saying that he, who talks the loudest and the longest, lands himself in difficulty, and we know that my friend has been talking the longest and loudest in this House on this Bill. I have always given credit to my friend for his sound judgment and logic; but I find that in speaking on this Bill he has lost both logic and sound argument (Ironical Cries of 'Hear, hear' and Laughter) and he is trying to play upon the sentiments of the Indians on the one hand and the sentiments of the Europeans on the other in order to gain his own personal object . . . .

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, I rise to a point of order. Is the Honourable Member justified in ascribing to a Member personal motives and saying that he has been appealing right and left with a view to gaining personal things?

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Personal object here means that the Honourable Member is interested in carrying his amendment. That is the personal object.

**Sir Muhammad Yakub:** My Honourable friend was telling the Indian Members of this House that this Bill creates discrimination, that while Government are taxing the pensions of Indians, they do not tax the pensions of Europeans who live in England. On the other hand, he has been telling the Europeans that a young European civilian, who cannot afford to live on his salary and who has to supplement his income by bringing money from England (Interruption)—he may be a young civilian or a young Tommy—he will be affected by this Bill. This is a very good way of argument. What really my Honourable friend means by bringing this amendment is that a millionaire who can afford to keep . . . .

**Sir Cowasji Jehangir:** I am not a milliner and I will not be called one.

**Sir Muhammad Yakub:** I did not say milliner: I said millionaire, who has converted the income of his mills into millions: if he can afford to keep his money longer than three years outside India, he escapes the liability of being taxed, while the poor Indian trader, who carries on his small business outside the country, and who has to bring money in order to help his wife and family, has to pay the income-tax: and this is the discrimination which my Honourable friend wants to point out, that a man who has got a larger sum of money should escape the income-tax while the man who is able just to make both ends meet should pay the tax. Probably the result of this amendment is giving effect to the suggestion made by my Honourable friend, Dr. Ziauddin Ahmad, who said that people who invest their money outside India should be given some bounty. If the House accepts the amendment of my friend, the Rao Bahadur, it

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will be giving, certainly, a bounty to men holding larger sums of money, who can afford to keep it in England for more than three years. If my Honourable friend wants that there should be no discrimination between the European and the Indian, why is he so anxious that a European who has got a smaller income in India should not be affected by this Bill? Why is he trying to play upon the sentiment of the Europeans? Why should not the European, who brings his money in India, be subjected to income-tax? Why does he want this discrimination between the European and Indian. Then he says, why not tax the pensions of the Europeans? What is the principle of levying taxes? A State can levy tax on the people of a country in return for the services which it renders to the people of that country. If a European, after having retired from the service, derives any benefit from the administration of this country, he should certainly be taxed. If a European, after his retirement, lives in India and makes India his home and then he carries on his business in England and brings back his money to India, he must certainly pay the tax; but when he severs his connection from India, when he does not derive any benefit from the administration of India, why should he pay the tax upon his pension? It may be income derived from India, but it is income which he has earned by past service. He is not, after retirement, receiving any benefit from the Indian administration. But if a European lives in India, he must pay. In the same way, why should an Indian, although he carries on business outside India, if he wants to take the benefit of the administration of this country, if his home and homestead is in India, if he wants to live and die in India, if his wife and children are in India, escape income-tax? Why should he not pay his quota to carry on the administration? Of course if he wants to live in Europe, if he wants to buy spacious villas in England and France and does not think of coming back to India, he is quite welcome to do it, and the Indian Exchequer will not claim any tax from him.

My Honourable friend has shown great sympathy with the subjects of Indian States. The subjects of Indian States ought to be very thankful that for the first time my Honourable friend has shown sympathy to them.

**Sir Cawasji Jehangir:** How do you know this is the first time?

**Sir Muhammad Yakub:** But I have not seen any resident of Indian States who brings back his accumulated money from outside the country and takes it back to the Indian State: they always keep their money in British India on account of safety . . . . .

**Sir Cawasji Jehangir:** Then my Honourable friend is very ignorant.

**Sir Muhammad Yakub:** I may be, but I am not more ignorant than the millionaire of Bombay who thinks only of millowners and investors and knows nothing about the poor man. We know it very well that, for the sake of safety, any money which the residents of Indian States have in their possession, they keep it in British India: they purchase property in British India; they have their money in British Banks; they never keep their money in the Indian States, because they think that their property and their money is safer in British India than in the Indian States. The residents of Indian States have utilised the benefits of the British administration up to this time, and if they have not been paying income-tax till now, there is no reason why in future they should not be taxed. Why should a poor Indian pay income-tax and

why should a rich man in an Indian State, who has earned money outside India, but keeps it in British India for purposes of security, escape income-tax, I really cannot understand. My friend has been very loud in talking about income and capital, and he asked, how long will you treat income as capital. I say that as long as income has not paid the tax which it ought, rightly, to pay, it ought to be treated as income, and so long as it remains in that State we will charge tax on it. When we were discussing the salt question, when we were fixing the price of the postcard at three pice, when the House agreed to put a surcharge on the Government servants in India, who with great difficulty are able to make both ends meet, when the House agreed to deduct five per cent from the low salaries of Indian servants, my friend's blood did not boil, there was no discrimination then, he did not vote for putting down the Finance Bill . . . . .

**Mr. S. O. Mitra** (Chittagong and Rajshahi Divisions: Non-Muhamadan Rural): On what side did you vote on the poor man's salt?

**Sir Muhammad Yakub:** I am not shedding crocodile tears for the poor Indian. I have been consistent in my policy, whatever it may be. But when my friend tries to shed crocodile tears for the residents of Indian States and for the poor millionaires of India, he exposes the hollowness of his arguments himself. He is not right when he says that a millionaire, who has his business outside India but lives in India, should not be taxed. As I said yesterday, these are all contrivances to evade taxation. A poor man must pay his last drop of blood, while the millionaire, the man who can afford . . . . .

**Sir Cowasji Jehangir:** According to that, my friend is a very rich man.

**Sir Muhammad Yakub:** I wish I were. I wish I could share some of those investments abroad on sterling loans of my friend, Sir Cowasji Jehangir. He has never shown any anxiety before for the poor man of India to the extent that he shows for the sterling loan investors of this country who have made their investments abroad. Of course, he may play upon the sentiments of Indians and Europeans, but he should know that there are people in this House who have intelligence enough and who know what is the object of these long speeches and loud expressions of sentiments. We are now on the threshold of a new era in this country. We want to purchase democracy, and democracy is a costly instrument, and we have got to pay for it. If we do not tax the pockets of the millionaires who have all this time been evading taxation, it will be very difficult for us to run our administration, whatever may be the faults of the White Paper. With these few remarks, Sir, I oppose the amendment.

**Several Honourable Members:** The question may now be put.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Chair accepts the closure. The question is that the question be now put. The motion was adopted.

**The Honourable Sir George Schuster** (Finance Member): Sir, my friend, Sir Cowasji Jehangir, in opening his speech said that he hoped that the Members of this House would keep both their eyes open on this



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subject this morning. I entirely agree with that general sentiment—but with one qualification. This, Sir, is a subject behind which lie certain solid facts, but in the speeches which have been made it seems to me that those solid facts have been very much obscured by clouds of dust which various speakers have tried to throw in the eyes of Honourable Members. I trust that Honourable Members' eyes were not open to receive all those clouds of dust. (Laughter.)

**Sir Cowasji Jehangir:** It was a lotion to clean them.

**The Honourable Sir George Schuster:** My friend made certain remarks which caused me not only a good deal of surprise, but also pleasure. In speaking of the inducements which might operate on the mind of a man who sought to send his money abroad, my friend said that the idea of escaping income-tax played very little part. He said that that man is thinking either of greater security for his capital or of the needs of his business, but as regards income-tax, what is income-tax?—a paltry half per cent.,—that cuts no ice at all. That was my friend's sentiment . . .

**Sir Cowasji Jehangir:** But for Indians living in India?

**The Honourable Sir George Schuster:** For Indians living in India or for anybody else. I wish, Sir, that I had had that speech to quote from in the course of the debate on the Finance Bill. I think, Sir, that my friend himself and certainly many of his colleagues have spoken of the burden imposed by the Indian Income-tax Act in very different terms. Then, Sir, we heard nothing of "what is this paltry half per cent. which makes no difference at all?" . . . . .

**Sir Cowasji Jehangir:** May I just explain my point, Sir? What I did say was that this half per cent. was not sufficient to influence Indians to send their money outside India. It is a big amount, but it is not sufficient to influence them to face all the disadvantages and all the risks there may be in sending their money out of India. It is a big amount in itself, but it is not sufficient to influence them. That was my point.

**The Honourable Sir George Schuster:** I fail to understand the point of my friend's interruption. He has exactly supported the point that I was making to the House, that in fact this is not a serious inducement as regards the transfer of capital. If it is not a serious inducement as regards the transfer of capital, then it cannot be a very heavy burden. But that is really rather beside my main point, and I shall have to refer to it again, because one of the points that I wish to make is that my friend himself is extremely inconsistent in the case which he has put before the House.

Now, Sir, as regards the hard facts or what I call the solid facts behind this case the principle on which we oppose this amendment is a very simple one. It has already been made clear by my friend, Sir Muhammad Yakub, who has just spoken. If we allow a time limit of this kind

to remain, then we must be playing into the hands of the wealthy man who can afford to allow his income to accumulate abroad and can evade the provisions of this Act, whereas the man of moderate means is forced to bring his money back every year. He does require it to live upon, and I think my friend was indulging in that operation which I described as endeavouring to throw dust in the eyes of Honourable Members when he tried to make them believe that there were negligible numbers of people who had their money invested abroad and could not allow it to accumulate for three years or more. There must be large classes, particularly in the case of persons engaged in business who are affected by considerations which make it necessary for them to bring their money back . . . .

**Sir Cowasji Jehangir:** I would like the Honourable Member to give me the figures. How many businessmen bring back their money into this country to live on, for keeping body and soul together? How many people bring back their money every year for the purposes of business? I should like to have figures.

**The Honourable Sir George Schuster:** I really cannot understand the point of my friend's interruption. I ventured to put to the House, and I put it to them again that there must be very large numbers in India who have investments abroad and businesses abroad who cannot afford to allow their income from those investments and from those businesses to accumulate abroad, but who require their income and investments to live upon. The class of persons which is able to save regularly every year from the incomes from their investments is, I put it to the House, without fear of contradiction, a very limited one. In fact the classes in India that pay income-tax at all are very limited in comparison with the numbers of the population; but the class that is rich enough to be able to allow income of that kind to accumulate must, I say, be of very negligible dimensions, and we feel that, if it is just that all income, whether it is earned abroad or not by persons resident in India, should be liable to Indian income-tax—and that we do feel to be absolutely just,—it would defeat the entire object of this measure if we were to put it in the way of all those who have more than ordinary means to escape its effects, merely by allowing their income to accumulate for three years and then to bring it out at their own pleasure. Sir, I think this is one of the points on which it is not necessary to speak either loud or long. It is a simple point which must appeal to any Honourable Member who seeks to understand the purpose of this legislation. I, therefore, propose to say no more about it.

Now, Sir, my Honourable friend made a very great deal of this question of discrimination. I confess that I regret very much that he should have done this. I feel that it is really quite irrelevant to the purpose of this measure and that it merely represents an attempt to import prejudice and ill feeling. Let us consider the position dispassionately. My Honourable friend says . . . .

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): As the Honourable Member is developing a new point, he might do it after Lunch.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. President (The Honourable Mr. R. K. Shanmukham Chetty in the Chair.

**The Honourable Sir George Schuster:** Sir, when we rose for Lunch I had just started to deal with the point made by my Honourable friend Sir Cowasji Jehangir, about discrimination, and I ventured to express a regret that my Honourable friend had raised this point, which I myself think can do nothing but create prejudice in the minds of Members of this House if they pay any attention to it. Sir, my Honourable friend's point, I think, is this, that in the case of a European engaged in business in this country, he may, out of the profits that he makes in this country each year, make remittances to England and allow that money to accumulate in England, and that the interest will accumulate on that money; and that, when he himself retires, he will take it up and will never be liable to Indian income-tax on those accumulations. There is one point I would like to make in that connection and that is—to take my Honourable friend's example—that that individual would at least have paid Indian income-tax on all those sums which he remitted home so that he would not have escaped the burden of taxation altogether. However, my Honourable friend compared his case to that of an Indian who did exactly the same thing. Then he said: "The European can go home and acquire that money without paying income-tax on it, and the Indian sooner or later will have to bring that money back to India." I interrupted my Honourable friend on that point and I asked him, "why"—why did he claim that sooner or later the Indian must bring that money back to this country? If he has been able to keep it there for 10 or 20 years, living perhaps only on the income from the accumulations up to a certain point, why should it be necessary to conclude that at some time or other he must bring that money back? I fail to see the force of that argument and I think that possibly my Honourable friend may have in mind the thought that individual may keep the money there during his life-time perhaps, when he dies, his children inherit, his fortune gets split up, and some of them will have to bring the money back. And then my Honourable friend's point would be, however late that may be, however many years it may be after the original accumulation, his descendants will have to pay income-tax on the money that they bring back. Well, Sir, I must confess that I wish that that were the position, but I think that on the true interpretation of the law as it would be after this Bill were passed that would not be the true interpretation. After the original earner of the income had died, and after his estate had passed through the hands of the administrator and been distributed to his legatees or his heirs or assigns, that money, in their hands, would undoubtedly be capital and they would not have to pay Indian income-tax on those accumulations. Therefore, I think the real force of my Honourable friend's point disappears if we consider the position as it really would work out. Then, Sir, there is another point. My Honourable friend has spoken of the effects of this measure always in terms of the effects on individuals, on human beings. But we certainly, in looking to the possible effects of this measure, have in mind rather more the case of companies that make investments abroad, very often—so I am told—because it is a good business proposition, because they do not have to pay income-tax on the income from these investments. Now, in the case of a company, there can be no discrimination at all. A company goes on for ever, and if one compar

can keep its money abroad, so can another. It is merely a question of the financial strength of that company and the way in which it conducts its business. I really believe that in practice this idea of discrimination, my Honourable friend spoke so much of, will really play no part at all. If it did, if there were a difference, then I venture to submit that there is a certain justification for it. The point has already been made that income-tax is properly leviable on a resident in the country by a Government, because of the services which that Government renders to the individuals living under it and this discrimination that there is in this case is no discrimination as regards the nationality of the individual. The question is one of discrimination as regards money remaining outside India and money coming into India. There is no sort of racial discrimination about it. I quite admit—and I shall have to admit that in connection with some other points that I have to make—that this measure is not at all points an effective measure: it is a half measure. If the House had passed the measure, which I introduced in the more drastic Bill of last year, we should have a much better position than will be created by this measure, but I venture to say to those who threw out what I consider to have been a better and juster measure, that it is hardly fair that they should criticize us now when we bring this measure forward, which in all the circumstances of the case is apparently the best that we can expect this particular House to pass. I would much rather, if my Honourable friend wants complete logic and complete fairness, that the answer to him should be: "Then let us have that measure which I introduced last year." It was he and his efforts chiefly that defeated that measure, and now we are forced to come forward with this admittedly imperfect measure, a measure which is capable, I am afraid, of quite easy evasion in many cases, but still a step in the right direction, a step of recovery on that road of mistake which the House embarked upon when they objected to the larger measure a year and a half ago.

Now, Sir, another point made by my Honourable friend was that if this measure is passed, it will have a great effect on the sterling securities of the Government of India. He said that as a result of the withdrawal of the privilege now enjoyed by those who have their money invested in sterling securities, we shall bring about a large sale of sterling securities and the repatriation of a large volume of Indian money from England to this country. My friend waxed very eloquent on that point. As he spoke, I tried to recall what he himself had said in the earlier passages of his speech. Then I found it a little difficult to follow his later arguments, for he himself had told us that it was not any question of avoiding income-tax which induced a man to transfer his capital from this country to England. It was the idea of greater security, or for purposes of his business. Well, Sir, if that is the position, then surely the levy of income-tax on those funds which are invested in sterling securities will not upset and counteract all the motives, motives which had nothing to do with income-tax which, according to my Honourable friend, induced that flow of capital from this country to England. I think the first part of my Honourable friend's speech defeats the last and that, I venture to submit, is a criticism which applies to a great deal of his arguments. Now, Sir, on this question I wish to make a point which again illustrates the main point as regards this measure. On this question of the encouragement of Indians to invest in sterling securities, I entirely agree with all those Honourable Members on the other side who have emphasised the value to this country of Indians themselves gradually acquiring the whole of the sterling debt of India. That is a grand ideal, it is an ideal which every

[Sir George Schuster.]

one in this country ought to work for. But in order to secure the achievement of that ideal, surely it is not necessary actually to give a bounty to those that invest their money in sterling securities. All that we seek to do is to create equality between the man who invests his money in Government of India rupee securities and the man who invests his money in Government of India sterling securities. We are not putting up any barrier against the investment of Indian money in sterling securities by proposing this measure. All we are saying is: Let us have fair play between the two classes of Government of India securities. If the country has capital enough to carry the burden, not only of the rupee debt, but also of the sterling debt, then, as I said, that would be a grand result, a result which would benefit India enormously, and I see no reason at all why that result should not be achieved. But it is misleading the House to say that because that is an ideal of national importance, therefore you ought to put the particular individual who chooses to invest his money in sterling securities into a particularly favoured position. That would be entirely unfair and all that this measure seeks to do is to remedy that unfairness.

Then, Sir, my Honourable friend again talked a great deal about the injustice done to those who had invested their money in sterling securities with the idea that they would always be free of Indian income-tax. He was interrupted by my Honourable friend, Mr. Biswas, who asked him whether there had been any contractual obligation in regard to that position. My Honourable friend had to say that there was no contractual obligation, but a moral obligation. Now, Sir, I have been constantly filled with wonder in the course of this debate at the way in which it is suggested that there should be a particular moral obligation to protect the interests of those who by their own ingenuity avoid the payment of Indian income-tax. There is apparently no moral obligation at all to protect those who invest in this country and pay their full share; but our feelings are constantly harrowed by the picture of what will happen to a man who has lived till now in the very happy position of never contributing anything in respect of that portion of his money to the cost of running this country. I feel no sympathy at all for that individual. I feel no particular hostility to him either. I do not seek to penalise him in any way, but I do entirely refuse to regard that individual as one who deserves our special sympathy. Let us take the case of two individuals who invest their money in this country. One of them, because he thinks perhaps that income-tax is likely to go up, invests his money in the tax-free securities of the Government of India. As this House knows, there are certain securities, chiefly the five per cent. 1945-55 Loan, which, according to the terms of issue, is exempt from income-tax. That represents a definite bonus for which the investors pay. The great bulk of the other securities are subject to income-tax. Let us go back three years, and take the position as it was before the income-tax was raised. The individual who put his money into tax-free securities has had no increase in the burden which, in respect of those securities, he has to bear. On the other hand, the individual who has invested in the taxable securities has had the burden heavily increased—one may say perhaps half per cent. of the interest taken away from him by the increases in the rates of income-tax that have been made. It will be just as logical for my Honourable friend to come forward and say that that is unfair to that individual. He bought those taxable securities in preference to tax-free securities.

because our rates of income-tax had stood at a certain level and now we have altered them. It might, therefore, be said that we have disregarded our moral obligation to that particular individual. But of course that is all nonsense. Everyone who invests in property must know that he stands to have his position altered as and when the laws of taxation are altered and there can be no special moral obligation to protect the interests of a particular class of residents in India. Above all, I say, there is no moral obligation to protect the interests of those who hitherto have avoided paying their full contribution according to their income to the public revenues of this country. That, Sir, I think, is really all that I need say in answer to my Honourable friend's case.

In conclusion, I would just like to say this. I have studiously endeavoured to avoid speaking either at great length or very loudly in making my final reply. I have wished to preserve a calm atmosphere, a calmness, if I may say so, of impartiality. I am completely impartial in this matter. If this measure is going to have any appreciable effect—and I believe that in a certain direction it will have a very appreciable effect—that effect will really be felt long after the responsibilities of the present Government have altogether passed into other hands. In bringing forward this measure, we serve no particular purpose as regards the present task of the Government. We bring forward this measure, because we think it is right, because we think that the present position is entirely unjustifiable. And we oppose this amendment, because, if it is passed, it would rob the measure which we have put before the House of almost all its strength and efficacy. In taking this step we are not, as one Honourable Member said, coming into line with the British Government. Unfortunately we shall not go as far as that. If the House had passed the wider Bill, which I brought forward a year and a half ago, then we should have come exactly into line with the British income-tax law. If we pass the present measure, we shall come into line with the position as it was in the United Kingdom, I think, about ten years ago. We shall fall

far short of what I consider to be the proper position for dealing with foreign income. Nevertheless it will be a step in the right direction. I believe most sincerely that this House, when it rejected the other measure, made a very great mistake. I believe most sincerely that before very long the fact that that was a mistake will be recognised by the future Government of India. In the meanwhile I would appeal to the House not to repeat its mistake by throwing out this measure. Let us at least take this short step to recover the ground which was lost 18 months ago.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That sub-clause (b) of clause 2 of the Bill be omitted."

The Assembly divided:

AYES—20.

Azhar Ali, Mr. Muhammad.  
Bagla, Lala Rameshwar Prasad.  
Chandi Mal Gola, Bhagat.  
Chinoy, Mr. Rahimtoola M.  
Gour, Sir Hari Singh.  
Gunjal, Mr. N. R.  
Jadhav, Mr. B. V.  
Jehangir, Sir Cowasji.  
Jog, Mr. S. G.  
Mackenzie, Mr. R. T. H.

Mody, Mr. H. P.  
Mudaliar, Diwan Bahadur A. Ramaswami.  
Murtuza Saheb Bahdur, Maulvi Sayyid.  
Pandit, Rao Bahadur S. R.  
Parma Nand, Bhai.  
Patil, Rao Bahadur B. L.  
Scott, Mr. J. Ramsay.  
Smith, Mr. R.  
Thampan, Mr. K. P.  
Ziauddin Ahmad, Dr.

## NOES—61.

Abdul Hye, Khan Bahadur Abul Hasnat Muhammad.  
 Abdul Matin Chaudhury, Mr.  
 Acott, Mr. A. S. V.  
 Ahmad Nawaz Khan, Major Nawab.  
 Allah Baksh Khan Tiwana, Khan Bahadur Malik.  
 Amir Hussain, Khan Bahadur Saiyid.  
 Anklesaria, Mr. N. N.  
 Bajpai, Mr. G. S.  
 Bhole, The Honourable Sir Joseph.  
 Biswas, Mr. C. C.  
 Clow, Mr. A. G.  
 Dalal, Dr. R. D.  
 Dutt, Mr. G. S.  
 Dutt, Mr. P. C.  
 Fox, Mr. H. B.  
 Ghuznavi, Mr. A. H.  
 Gidney, Lieut.-Colonel Sir Henry.  
 Haig, The Honourable Sir Harry.  
 Hezlett, Mr. J.  
 Hudson, Sir Leslie.  
 Ismail Ali Khan, Kunwar Hajee.  
 James, Mr. F. E.  
 Jawahar Singh, Sardar Bahadur Sardar.  
 Jha, Pandit Ram Krishna.  
 Joshi, Mr. N. M.  
 Lal Chand, Hony. Captain Rao Bahadur Chaudhri.  
 Leach, Mr. A. G.  
 Maswood Ahmad, Mr. M.  
 Megaw, Major-General Sir John.  
 Metcalfe, Mr. H. A. F.  
 Misra, Mr. B. N.

Mitchell, Mr. D. G.  
 Mitter, The Honourable Sir Brojendra.  
 Morgan, Mr. G.  
 Muazzam Sahib Bahadur, Mr. Muhammad.  
 Mukherjee, Rai Bahadur S. C.  
 Noyce, The Honourable Sir Frank.  
 Rafiuddin Ahmad, Khan Bahadur Maulvi.  
 Raghubir Singh, Kunwar.  
 Raisman, Mr. A.  
 Rajah, Rao Bahadur M. C.  
 Rajan Bakhsh Shah, Khan Bahadur Makhdum Syed.  
 Ranga Iyer, Mr. C. S.  
 Rastogi, Mr. Badri Lal.  
 Rau, Mr. P. R.  
 Reddi, Mr. T. N. Ramakrishna.  
 Ryan, Sir Thomas.  
 Sarda, Diwan Bahadur Harbilas.  
 Schuster, The Honourable Sir George.  
 Seaman, Mr. C. K.  
 Shafee Daoodi, Maulvi Muhammad.  
 Sher Muhammad Khan Gakhar, Captain.  
 Singh, Kumar Gupteshwar Prasad.  
 Singh, Mr. Gaya Prasad.  
 Singh, Mr. Pradyumna Prashad.  
 Suhrawardy, Sir Abdulla-al-Mámūn.  
 Tottenham, Mr. G. R. F.  
 Trivedi, Mr. C. M.  
 Vachha, Khan Bahadur J. B.  
 Yakub, Sir Muhammad.  
 Yamin Khan, Mr. Muhammad.

The motion was negatived.

**Mr. T. N. Ramakrishna Reddi:** Sir, I beg to move the following amendment that stands in my name:

"That the second *Proviso* to sub-clause (c) of clause 2 of the Bill be omitted."

In short it means that if this amendment is carried, the differential treatment in the way of calculating income for taxable purposes will be done away with. When I was listening to the lucid speech made by Sir Cowasji Jehangir in getting exemption for foreign income at least for three years, I did not want to prejudice the issue before the House by opposing him at that stage and now I find that the verdict of the House is overwhelmingly against him and, as the verdict is entirely against him, I have great pleasure to move this amendment.

Sir, the whole object of this Bill,—the amendment of section 4,—is to impose taxation on all foreign incomes when they are received or brought into British India. By carrying these sub-clauses (a) and (b), we have achieved the object of this Bill. All the foreign incomes now, whether they are received in India or brought into India, are liable to taxation. After that, Sir, the amendment to the second *Proviso* wants to make a distinction in the method of calculating the income, that is to say, if a man keeps his income in foreign countries where he has earned that income and brings it after a number of years, he will be in a better position, that is to say, he will not pay as much taxation as a man who brings his foreign income into India each year. This has got one disadvantage, Sir. In the case of a man who keeps his income outside for

a number of years, if this *Proviso* is to be passed, he will be in a better position in the matter of income-tax.

**An Honourable Member:** How?

**Mr. T. N. Ramakrishna Reddi:** I will explain as I go later on in my speech. If the income is to be taxed as it arises, as it is brought every year to India, Government will know what it is, and they can ascertain the amount of tax that they could expect from that source each year, and thereby the Government will be in a position to give relief to the poorer tax-payers at the bottom. If they have to bring it into India after a lapse of, say, five or ten years, then the Government will not know at what particular time they will bring it. It will not be possible for the Government to ascertain how much income they would collect in a particular year. Then, Sir, there is another consideration also. A wealthy man, who is in a position to retain his income in other foreign countries, where the income is derived, he will be, in a better position financially than another man who has to bring his income every year. That I will explain by an illustration, Sir. Supposing there is one man who brings his income into British India every year. As soon as the income is brought into the country, a tax is levied and he has to pay the tax to the Government. His net income will be so much as he has got after paying his income-tax. Supposing he gets a big income, he may be liable to pay super-tax. In that case, he will have to give to the Government a very large slice of income in each year. Take the case of another man who accumulates his income. He does not bring it into British India every year for a number of years; his income accumulates annually with compound interest. There will be no deduction from his income until he brings the accumulations into this country. The rate of income-tax is arrived at by dividing the total income by the number of years during which the accumulation had taken place. This lower rate is applied in calculating the tax on the total income. Thus a man who brings his income annually will be in a more disadvantageous position than a man who accumulates his income outside India and accumulates interest also on it and brings his income inside India. (Interruption.) I will leave it for further elucidation to Dr. Ziauddin.

Well, Sir, take another instance. Suppose there are two assesseees who have got incomes of a lakh each for each year in foreign countries. One of the assesseees brings his income each year into this country and pays his income-tax or super-tax, as the case may be, say, for 5 years. Supposing there is another assessee who does not bring income into this country for five years. He has not got a single pie to pay as income-tax or super-tax in India for these five years. Suppose in the sixth year both of them suffer a very heavy loss. Suppose, at the end of the sixth year, they both suffer a loss of six lakhs of rupees. The man who has to pay his income-tax has already paid and his loss of six lakhs for the sixth year is not at all calculated for getting any relief to him. The other man has escaped payment of income-tax during five years when he had got income, and he has nothing to be taxed as he had sustained losses in the sixth year. He has nothing to bring to India. Thus, you have a man who has brought regularly the income into the country and has paid income-tax on these five lakhs, while you have another man who has not brought his income and has not paid a single pie. That is really a very great hardship.



[Mr. T. N. Ramakrishna Reddi.]

Further, I ask, why should these gentlemen get a lot of profit and not bring their incomes into India? As has been already pointed out, there should be every encouragement given to capitalists to invest as much of their money as possible in this country. It is only when they hope to get higher income and better security for their investments, they go abroad; and such people will be in a more advantageous position than those who have invested their money in India; and those who invest their money outside India are not doing as much service to their country as those who take the risks and invest their money in India; and as such I do not see any reason why such gentlemen should enjoy more privileges. Further if they bring their money into India every year, they have to invest in the banks and there will be a lot of money in the country and, consequently, interest rates will go down. Thus there will be cheap money available for industrial purposes. So these capitalist assesses who have foreign incomes must be made to bring their incomes into the country and make that available for industrial purposes in the country, and they should not be allowed to have them accumulated. There is another reason also. Supposing after some years they get a large accumulation, they might think that if the money is brought into India, they might have to pay a large amount of income-tax and, in order to avoid payment, they might think of settling in foreign countries alone. We want to prevent that tendency also. For all these reasons I hold that there should be no distinction made in the method of calculating the tax on these foreign incomes. If my amendment is accepted, it will remove that anomaly. Sir, I move the amendment.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Amendment moved:

"That the second *Proviso* to sub-clause (c) of clause 2 of the Bill be omitted."

**Mr. Muhammad Yamin Khan** (Agra Division: Muhammadan Rural): Sir, I move that the question be now put.

**Diwan Bahadur A. Ramaswami Mudaliar** (Madras City: Non-Muhammadan Urban): Mr. President, as I was listening to the debate, I got an impression that if there were a person in this country for whom no sympathy was deserved, one who had done the greatest disservice, one who was most unpatriotic, that man was the one who traded across the seas in foreign countries. I could understand some of my Honourable friends like my Honourable friend from Chittoor putting forward such a theory, that money should not go outside this country, that all money should be invested in the country, and that business should be promoted in India. But for the life of me, I could not understand the Honourable the Finance Member coming from the United Kingdom of all countries putting forward the theory that it is unpatriotic, highly unpatriotic for anybody to do business abroad. . . . .

**The Honourable Sir George Schuster**: I never said anything of the kind.

**Diwan Bahadur A. Ramaswami Mudaliar:** The whole gist of his arguments, the whole basis of every one of the speeches he has delivered during the past eighteen hours, the crux of what he has said is that nothing is more wrong than for a man to go and trade abroad. (*Cries of "No, no."*)

**An Honourable Member:** For a poor country like India.

**Diwan Bahadur A. Ramaswami Mudaliar:** My Honourable friend, the Finance Member, does not want any glossaries; he can very well take care of himself. He does not want any commentators, not even the commentator from Meerut. The Honourable the Finance Member has certainly said that these people evade taxation. But if I have followed the Honourable Member's speech, he certainly implied, and the speeches made by some Honourable Members, like my Honourable friend who has just sat down, confirm that impression, that nothing was more unpatriotic than for a man to take money, which he should rightly invest in his own country for developing the industries of the country, and invest it outside. Whether the Honourable the Finance Member said it or not, my Honourable friend who sits next door to him said that Honourable Members have suggested that; and I venture to repeat again that the speeches of the Honourable the Finance Member lend colour to that suggestion and make people think that there was something atrocious in trading with foreign countries and taking capital away which should have rightly been invested in this country. As I said, the United Kingdom is one of those kingdoms that believe in trading abroad: it has its prosperity, because its citizens went out and traded abroad. It has got its securities among all the countries of the world: the United Kingdom is the greatest creditor country in the world, next perhaps to the United States. My Honourable friend, the Finance Member, certainly said, where he referred to business or trade, that investing in foreign securities was something far less patriotic. He certainly conveyed that impression to me. The Honourable the Finance Member knows, none better, that Englishmen are the persons who invest in foreign securities largely. They have got their bond holders in Argentine: they have got their bond holders in Austria under special conditions: they have got them in Germany; they have got them in all parts of the world; and, therefore, to try to make this House think that there is something essentially unpatriotic in investing in foreign securities is, I venture to think, to mislead the House.

Now, my Honourable friend, Mr. Ramakrishna Reddi, has, I am sorry to say, outstripped even the enthusiasm of the Government and the Finance Member in the amendment that he has chosen to move. The Finance Member and the Government Members, under which category I think I should include my friend, Mr. Anklesaria, because the Honourable the Finance Member included him last night among the Government Members who have put in a dissenting minute; and if there was really much of substance in the point, I should have expected my friend, Mr. Vachha or Mr. Mitchell, to move an amendment to that effect. They have not done it, and my friend, Mr. Reddi, comes forward and moves the amendment. I venture very respectfully to draw his attention to this thing. What is the result of this amendment, if this is carried? A man who has been trading abroad or who has his securities abroad and who has his business abroad.

[Diwan Bahadur A. Ramaswami Mudaliar.]

because the three years' rule is taken away, he earns his profit year by year. Any man who has an elementary idea of business knows that even though he may earn a profit, it may not be possible for him to withdraw the profit at the end of the year. We all know that in several companies though they declare dividends they are not able to pay out the dividends in cash immediately. It would disorganise the whole business: to declare that a profit has been earned and to pay the cash equivalent of that profit immediately are two different things. It is just possible that it will ruin the business if that profit is withdrawn immediately. It is possible that for the sake of the business itself this profit may be kept in. It is not always cash profit or liquid profit; and you have to take into consideration the investments and many other things. It may be that your profit is locked up in some part of the business itself and cannot be taken out without dislocation. What is it that you want to do? You want to force a man to bring out his profit annually. Where is the justification for that? Why should he not wait for a convenient opportunity to withdraw his money and bring it into this country? Whatever time may elapse, he is not going to escape the income-tax. The previous decision of the House has made certain of that position. Therefore, he is liable to income-tax. What you now seek to do—and I will draw my friend, Mr. Reddi's attention to it—is this: if the man brings his profits after five years, he will not be paying the income-tax which he would otherwise have paid. We say the amount would be swollen up and a further charge will be put on him: super-tax and things like that: and he will be penalised, thereby forcing him to withdraw his amount, only if he wants to save himself. Supposing, for instance, he has earned Rs. 50,000 every year as profit: if he brings it in the first year he pays income-tax at the rate on Rs. 50,000. If he brings it in the second year, he does the same. But if he brings it after five years, that is, if he brings in Rs. 25,000, he pays income-tax, he pays super-tax also on that. Why? Where is the justice in that? I trust that my Honourable friend, the Finance Member, will not take advantage of this amendment and try to restore the position as it stood before. I think it is just the other way. You are going to get your pound of flesh from this man. You divide it by five years. You get from each allotment of that share the income-tax you want him to pay. There is no evasion in this case. You are penalising him. This is not a question of evasion. The man is bound to pay income-tax, whatever the period may be, and he does not bring it, not because he wants to evade paying income-tax. Surely, the Finance Member cannot say that this is the ground on which he is not willing to bring his profits home at the end of each year. There are half a dozen other reasons why he cannot bring his profits home immediately. Supposing, for instance, a person has invested in the United Kingdom or Germany and the exchange tumbles down, and he thinks that it is advisable that the money should not be brought home at that time when he will lose heavily. Is he not justified in keeping his money abroad at such a time until the old rates of exchange prevail? And then when he does bring back his money, you penalise him and you say he must pay the super-tax. What is the reason for it? This is the one small amendment that has been passed by the Select Committee. I would have gone further and said that the man should not pay increased income-tax at all. If, at the end of five years, he brings back Rs. 25,000. I do not see why he should pay income-tax on Rs. 25,000. I am afraid.

that is the result of even the amendment which applies only to surcharge. I understand that the man will have to pay income-tax and super-tax, and no attempt has been made to save this man, because there are extraordinary difficulties which even the ingenuity of Mr. Vachha was not able to get over. I should have preferred that on any amount that comes in, each year's amount should be taken into consideration both for super-tax and for income-tax. I do not wish to take any more time of the House, and I only trust that the Honourable the Finance Member, in his righteous enthusiasm to push through this Bill, will not take advantage of such an amendment as this.

**Mr. B. Das** (Orissa Division: Non-Muhammadan): Sir, I have been provoked to make a speech on this amendment. When my friend, Sir Joseph Bhore, would initiate the Anti-Dumping Bill debate, I thought I would wait till then to listen to the hallelujahs sung by Mr. Mody, and I did not, therefore, like to intervene in this debate . . .

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Honourable Member should keep his powder dry.

**Mr. B. Das:** Sir, I am one of those who seldom pays compliments to the Finance Member or to any other gentleman on the Treasury Benches, because I do not believe in paying compliments, but in this case I have followed the debate this week and also for the last two or three years on similar Bills and charges were levelled against my friend, the Honourable Sir George Schuster, that he was against India's investments abroad which view, I think, he had never expressed on the floor of this House. I am not here to pay compliments to the Treasury Benches. Their shoulders are broad enough to receive any attacks. Well, Sir, I expressed my view on the present Bill two years ago, and that view is the Congress viewpoint, and if I did not vote on that occasion with the Government, it was because very powerful influence was brought to bear on me as I happened to be connected with different Indian Chambers of Commerce, and I thought that discretion was the better part of valour, and I remained absent on the day of voting. When the Finance Member brought the second Bill, I was absent, but it was rejected; all the same, my moral support was there. And about this Bill my moral support is there, because I say that I stand by the Congress viewpoint, and the Congress viewpoint is *that everybody should render unto Schuster what is Schuster's due*. It is not that the poor man alone should give 25 per cent. of his income while the rich man should give only five per cent., because he has got the powerful support of the legal luminaries both in this House and outside to fight his cause if he evades his payment. Sir, while I support that this Bill should be passed, I tried to understand my friend. Mr. Reddi, while he was speaking on his amendment, but I could not follow him as to how he was going to bring relief to anybody, and even to the Honourable the Finance Member. And there my friend, Diwan Bahadur Mudaliar, will agree with me, and at least on this my views and his will coincide. I am not so lavish in complimentary expressions. I never shower complimentary expressions on anybody. My friend talked of the honesty of the income-tax-payers. Sir, I have levelled many a charge against the Britishers on the floor of this House, but I do hope that my friend will give me the credit for saying that the British tax-payer is more

[Mr. B. Das.]

honest. He does not evade taxation, and my friend, the Finance Member, if he is allowed sufficient time by you, Sir, will perhaps be able to give this House his impressions as to how the British income-tax-payer honestly pays his due and does not evade taxation as is very often done in India by the tax-payers out in this country. . . . .

**Diwan Bahadur A. Ramaswami Mudaliar:** I never said any word about the honesty of the British tax-payer.

**Mr. B. Das:** What is this Bill?

**Sir Cowasji Jehangir:** It is another Bill which has not been moved yet.

**Mr. B. Das:** What is this Bill? It relates to foreign investments. My friend, Diwan Bahadur Mudaliar, said that the Finance Member objected that Indians should not invest their money abroad, but I am comparing the honesty of the British tax-payer and the Indian tax-payer. The Indian tax-payer nearly always evades income-tax . . . . .

**Diwan Bahadur A. Ramaswami Mudaliar:** No, no.

**Mr. B. Das:** In spite of that denial, I have the highest respect for my friend who comes from Madras. My friend has not lived in Bombay. My friend, Mr. Vachha, is there, and he will tell us how income-tax evaders play havoc in Calcutta and Bombay and how Government are losing millions . . . . .

**Mr. H. P. Mody:** We pay it in Bombay.

**Mr. B. Das:** My friend, Mr. Mody, says that they pay income-tax in Bombay. When this House gave Government its permission to take off the cotton excise duty, his representative assured us that income-tax will flow ten times. Now, what is the result? What is the use of saying that the rich always pay and do not evade payment of income-tax? Why are there so many income-tax evaders in Bombay and Calcutta who help multi-millionaires like my friend, Mr. Mody,—I do not know if my friend, Mr. Mody, is a multi-millionaire,—but why are there so many income-tax evaders in Bombay and Calcutta who help rich people to evade payment of income-tax? This is my speech on the Bill, and I have told that I adhere to my first speech which I made two years ago. I hope my friend, Mr. Reddi, will try to revise his views and withdraw his amendment.

**Mr. N. M. Joshi:** Sir, I do not wish to make a long speech on this subject, but when I heard my friend, Diwan Bahadur Mudaliar, waxing eloquent about the injustice done to foreign investors or as he put it, why penalise a man who invests his money abroad,—I really could not understand him. If a man does not bring his income to his country every year and brings it only once in five years he does it for his own convenience, because by doing so he postpones the payment of the super-tax and the income-tax. Therefore, when he brings money to his

country, if he is asked to pay income-tax at a higher rate, surely it cannot be called penalising. He pays the price for the postponement of the payment, and I think there is absolutely no injustice in that. My friend should not have said that the man is penalised unnecessarily. He is not penalised at all.

**The Honourable Sir George Schuster:** Sir, I wish to intervene as early as possible in this debate so as to make clear the attitude of the Government with regard to this amendment. I am afraid I am destined to shock my Honourable friend from Madras still further, because I and Government give our most hearty support to this amendment. My friend asked, why if Government believed in this principle they had not themselves moved an amendment. Our attitude on the matter was this, that, although we thought the recommendation, against which this amendment is directed, was a mistake, it did not affect vitally the purpose which we had in view, and as a majority of the Select Committee elected by this House had approved the principle which this amendment seeks to cancel again, we were prepared merely to state our views and then let affairs take their course. Now that my Honourable friend, Mr. Reddi, has moved an amendment, we have no other course open to us except to support an amendment which we think to be essentially right.

**Mr. Gaya Prasad Singh** (*Muzaffarpur cum Champaran: Non-Muham-madan*): If Government think an amendment on those lines is fair, why did not Government themselves give notice of such an amendment?

**The Honourable Sir George Schuster:** I have endeavoured to explain the position to the House. Strange as it may appear to my Honourable friend, we on these Benches do try as far as we can to act in a manner responsive to the wishes of the House. Where any vital principle is involved naturally we have to stand up for it even though we may feel that a majority of the House may be against us, but in this particular case no vital principle was involved. It did not affect the vital purpose of this Bill and therefore as a majority of the Select Committee had voted against us in this matter we were prepared to stand by that and let affairs take their course. That is what I said. Now that my Honourable friend has moved this amendment we feel that we have no other course open to us except to support it because we think it is essentially right. I wish to make that clear. The reasons why we support it are given in the minute of dissent signed by myself and by my Honourable colleague, the Law Member, Mr. Vachha and Mr. Anklesaria. I need not repeat them, because my Honourable friend, Mr. Joshi, who has just spoken has made that point very clear; but while I am speaking on this matter, I just wish to answer what has been said by my Honourable friend, Mr. Ramaswami Mudaliar, on this question of the ethics of investment abroad. Now, Sir, if my Honourable friend thinks that anything which I have said lends colour, those were his words, to the idea that it is a vile or unpatriotic thing to invest money abroad, I wish to take this opportunity of correcting that impression. I am one of those who think that when persons who are engaged in business talk very loudly of their ethics or their patriotic motives there is generally a certain amount of insincerity in their words. Most people do business from business motives, and unfortunately the main motive is to make money. I think there is

[Sir George Schuster.]

nothing immoral in that at all nor is there anything unpatriotic in investing money abroad. On the other hand, there is nothing essentially patriotic in it, and a good many of the speeches on the other side "lent colour", I may say, to the view that it was an essentially patriotic thing to do to invest money abroad. My Honourable friend, Dr. Ziauddin Ahmad, went so far as to say that a man should receive a bonus for doing it and we have had so many eloquent speeches from my Honourable friend, the Leader of the Nationalist Party, attempting to rouse our feelings about the Indian traders abroad and the value to India of men going abroad for that purpose, that perhaps some of us who have spoken on the other side in order to correct that impression have tried to emphasize the view that it is possible to represent investment of money in India itself as something which is more patriotic than investment outside India. If we have exaggerated our case, it has been because we had to meet exaggerations on the other side. If I disclaim the view that there is something essentially patriotic in investing money in this country, I must also controvert as strongly as I can the view that there is something essentially unjust in taxing money which is invested abroad, and that, Sir, is the view on which the case, which has been represented by those who oppose Government, is based. That, Sir, is all I need say. I very much hope that the House will support this amendment. We think that there is nothing unjust in it, and it will relieve us of an administrative difficulty which we view with the greatest possible alarm.

**Sir Cowasji Jehangir:** Mr. President, I must congratulate my friend Mr. Reddi for two reasons. The first one is that he has at last seen there are advantages in co-operating with Government and taking the assistance of Government officers now and then to draft his Resolutions and his amendments.

**Mr. O. S. Ranga Iyer** (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): On a point of order. The Honourable the Deputy Leader of the Independent Party said that Mr. Reddi sought the co-operation of the Government in drafting this amendment. I think that is an allegation which is not quite correct.

**Mr. T. N. Ramakrishna Reddi:** On a point of personal explanation. I gave notice of both my amendments before any official Member approached me. I never sought the help of any Government Official in giving this amendment. It was only after I had come to this House that Mr. Mitchell came to me and told me that my amendment regarding agricultural income—mind, it is not the amendment under discussion—would not serve its purpose, because it was technically wrong. He suggested a method of giving a proper amendment. I gave my amendment before he saw me. I never sought his help or any other official. This is really an aspersion and it is unworthy of an Honourable Member to make that against me. He ought to have known facts before he made that statement.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): There is absolutely nothing wrong or unworthy on the part of a Non-Official Member to seek the technical advice of any Government Department in drafting his amendment.

**Sir Cowasji Jehangir:** I again repeat my congratulations to the Honourable Member for having done, what we very often do ourselves, what I have very often done myself, in seeking the assistance of Honourable Members on the opposite side to draft amendments.

**Mr. T. N. Ramakrishna Reddi:** The Honourable Member is making an incorrect statement. I never sought the help of anybody. The Honourable Member on the opposite side came to me and suggested a particular form of amendment.

**Mr. C. S. Ranga Iyer:** On a point of order. I should like to have your definite ruling on this matter, whether it is proper for an Honourable gentleman to cast an aspersion on another Honourable Member of the House that he sought the co-operation of the Government in order to bring forward an amendment, that is to say, that he traded upon the brain of the Government. If, on the contrary, the Honourable Member only meant that he sought the co-operation of the Government to put his amendment in legal language, that is an entirely different matter, but that was not the Honourable Member's original statement or the implication of that statement.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Chair understood Sir Cowasji Jehangir to state that the Honourable Member, Mr. Reddi, took the technical advice or assistance of the Government Department in putting his amendment in proper language and that he did not get an inspiration from Government to give this amendment.

**Sir Cowasji Jehangir:** That is exactly what we very often do. I have done it myself. I again congratulate my Honourable friend. My only regret is that he did not consult either my Honourable friend, Mr. Vachha or Mr. Mitchell before he made his speech in moving this amendment, for if he had done so, it would really have brought home to us as to what he wanted to do. I really honestly believe, and I sincerely say that my Honourable friend really does not know the meaning of his amendment and I am certain that my Honourable friend, as far as his explanation went, meant exactly the opposite of what his amendment really tries to effect.

Now, Sir, I do not understand why my Honourable friend should be so thin-skinned. Really, we always speak perfectly frankly and honestly what we think, and if my Honourable friend has not understood the amendment that he has moved, there is no reason why I should not say so; and if my Honourable friend, like many of us, is incapable of drafting these technical resolutions and takes the assistance of our friends opposite, why should he get so angry? But there is good reason to congratulate him upon it. Sir, I have heard my Honourable friend speak here for the last two or three years and it is but rarely that he has taken such assistance; but if he has on this occasion taken advantage of the assistance available from the opposite Benches, surely it is a reason for congratulation. Now, coming to the amendment itself, which is a simple one. If we did not include that *Proviso* in the Bill that we did by a majority, what would happen would be this: the incomes would accumulate outside British India and when they were brought



[ Sir Cowasji Jehangir. ]

back to India, they would be assessed at a higher rate than they would otherwise have been if they had been brought out year by year. Suppose your income, Sir, is Rs. 5,000—not that yours is, it must be much more—suppose somebody's income is Rs. 5,000 and it accumulates for five years and grows to say Rs. 27,000 at compound interest, then the rate of income-tax that will be charged will be the rate that is applicable to Rs. 27,000 and the man would escape super-tax, because it was not Rs. 30,000; but his income-tax would be at a higher rate. Suppose a man's income is Rs. 50,000 and he brought it after four years when it grew to Rs. 2,25,000; then, the rate of super-tax that will be applied will be the rate applicable not to Rs. 50,000 a year, but to Rs. 2,25,000 a year. Now, is that fair? Now, the Government, under the Bill, allows this man to accumulate his income outside British India. The law allows us; and, therefore, when he does choose to bring it back to India, there is no reason why he should be made to pay a rate of super-tax and income-tax much higher than what would be applicable if he brought it out year by year; and, therefore, what we tried to provide by this Bill was that as regards income accumulated during four years it should be roughly divided by four, and the rate of super-tax, that he would have to pay, would be as if on Rs. 50,000 for each of the four years and that would be the lump sum super-tax that would be charged. The fact is that if you do not put in this *Proviso* he will have to pay a much higher rate of super-tax than the man with income in India. It is quite true that the payment would be suspended for a number of years, but my contention is that the law allows it, and the law having allowed it, why do you penalize him when he chooses to bring it in in a lump sum some years hence? That is all that it provides. I know the points brought forward by the Honourable the Finance Member now were those he brought up before the Select Committee. We did not agree with them; we thought this provision should be included by a majority. Now, Mr. Reddi has thought fit to move an amendment to delete it. Well, he is quite justified to do so, but the Honourable Members must understand really that this was a *Proviso* put in in order to do justice to the assessee and allow him to pay only that amount of super-tax which he would have been bound to pay had he brought in the money year by year and not in one lump sum after it had accumulated for four or five years. That is the only difference. Sir, under these circumstances I think we will be doing bare justice to the assessee if we reject this amendment and allow the Bill to stand as decided upon by the majority of the Select Committee.

**Mr. C. C. Biswas:** Sir, there is only one authority on income-tax law in this House (Hear, hear), and we have had abundant evidence of that during the last two days! Therefore, when I presume to speak on this matter, I naturally do so in fear and trembling. But, before I come to deal with this amendment, I would just like to invite the attention of the House to a technical point. My Honourable friend, Sir Cowasji Jehangir, went for my Honourable friend, Mr. Reddi, because in technical matters Mr. Reddi sought the advice of the opposite Benches.

**Sir Cowasji Jehangir:** I did not go for him; I congratulated him.

**Mr. C. C. Biswas:** I should like to offer similar congratulations to my Honourable friend, Sir Cowasji Jehangir. Sir, if you will look at this Bill introducing an amendment to section 4, you will find that this section occurs in Chapter I, and that Chapter is headed "Charge of Income-tax". That Chapter has nothing to do whatsoever with super-tax. Super-tax is dealt with in a different Chapter, and if you want to make any amendment regarding super-tax, this is not the place. This ought to come as an amendment to section 55. Sir Cowasji Jehangir was on the Select Committee, but probably he was not troubled with technical points.

**Sir Cowasji Jehangir:** No, I was not.

**Mr. C. C. Biswas:** Sir, as I have pointed out, Chapter I deals purely with income-tax, whereas Chapter IX deals with super-tax, and any amendment on the lines of the *Proviso* which we have before us should have found a place in Chapter IX and not in Chapter I. Putting that aside for a moment let us see what is the effect of the *Proviso*. My Honourable friend, Sir Cowasji Jehangir, with that spirit of charity, which always actuates him, was pleased to suggest that my Honourable friend, Mr. Reddi, did not understand the amendment he was moving, because, was it not a very difficult amendment, and were not the consequences far-reaching, in that Mr. Reddi sought to take away an obnoxious clause which my friends had succeeded in putting in in the Select Committee! Sir, it does not require much acuteness to see what the effect of this amendment of Mr. Reddi would be, just as it does not require much acuteness, notwithstanding the specious arguments of my friend, Sir Cowasji Jehangir, to see what the effect of this *Proviso* is. Sir, my friend talked eloquently about discrimination. I say, this *Proviso* itself is a discrimination in favour of rich capitalists like my friend, Sir Cowasji Jehangir. What is the underlying, the fundamental principle which you find in your income-tax law here in India? It is that income-tax is something annual, and it shall be charged in respect of the income which accrues during the previous year, i.e., the year previous to the year of accrual.

Now, Sir, in regard to income which accrues abroad, sub-section (2) of section 4, tells you what is, or is to be taken as, the year of accrual. For that purpose, a sort of legal fiction is introduced, and that legal fiction is, that so far as income of this kind is concerned, it is the year in which the income is received in or brought into British India that shall be deemed to be the year in which it accrued, irrespective of the actual year in which the income may have originated in the foreign country. Sir, why was such a *Proviso* necessary? Why was it necessary to introduce a legal fiction of that kind? It was necessary, because of the patriotic activities of friends like Sir Cowasji Jehangir! So long as there was no such clause as this which was introduced by the amending Act of 1923, what were they doing? As I pointed out yesterday, under sub-section (1) of section 4, all income, of whatever character it may be, whether it comes from business or from other sources, is liable to income-tax, if it is received in British India. My friend waxed so eloquent over the injustice done to the starving millions of India. Sir, it is not so much the starving millions of India as the starving millionaires of India who are concerned. Now, how were these gentlemen discharging their obligations towards the State

[Mr. C. C. Biswas.]

which they profess to be so anxious to assist, in respect of the foreign income which they were receiving in this country? Sir, the answer is given in the Income-tax Manual, and I will read it from there. If you will look at page 140, you will find what led to the enactment of this sub-section (2):

"Section 4 (2) was inserted in the present Act owing to the tax having previously been evaded in the case of income accruing or arising out of British India and received in British India by bringing in the said income at intervals and claiming that as such income was not received in British India in the year in which it arose or accrued out of British India, it was, when brought into British India, not income, but accumulated profits or savings or capital."

Sir, that was the position. There was this systematic evasion going on for years. I thought my friends would feel ashamed that they were not paying their lawful share of tax on their incomes abroad. The Legislature had to interfere; they stepped in and introduced sub-section (2). Unfortunately, the only improvement which the then Legislature could get effected was a limited one, restricted only to profits and gains of business. It may be, they anticipated administrative difficulties. That might have been one reason, or it may be that there were other influences at work which proved to be too powerful for the Government to resist at the time. Whatever it is, only a partial remedy was provided in this sub-section (2) in regard only to profits and gains from business. It was laid down that such profits and gains shall be deemed to have accrued or arisen in the year in which they were actually received in British India, irrespective of the actual year in which they were earned abroad. It was coupled no doubt with the three-year limitation. Now, Sir, the present Bill seeks to place income from other sources on the same footing as business profits. That is done by sub-clause (a) of clause 2 of this Bill, so far as the year of accrual is concerned. To that no exception has been taken by anybody here. Then, there is the further amendment by sub-clause (b), which this House has also accepted, which secures that such income, whether derived from business or from other sources, which arises abroad will be regarded as having accrued or arisen in British India, whenever it is received, irrespective of any time-limit whatever, the three-years limit being altogether dispensed with. As a result of that, what is the position? It would no longer be possible for people to evade the tax by withholding their foreign income for a number of years. So long as the three-year limit was in force, they had only to keep it there, and not to remit it to India for three years. That temptation will no longer be there. Still my friends say that they should not be deprived of the chance of earning a higher rate of interest by allowing that income to accumulate for years out of British India. If there is any inducement in that direction, by all means let them accumulate. Let them accumulate that income as long as they please. But so long as that income retains the character of income, I maintain that it is only fair and proper that it should be assessable to tax here when it is brought into British India. If an income is merged into capital by reason of the way that income has been dealt with, or by reason of lapse of years, they will of course enjoy exemption automatically on the ground that it is no longer "income". That ought to be safeguard enough. This Bill proceeds on the assumption that what is brought into British India is income, and is chargeable as such. We must not forget that point. The first question the tax-gatherer asks is: What is the

"income" which has accrued? What is the "income" which you have brought into British India? If the amount of money he brings is not income, then he gets exemption. The whole Bill, I say, again, presupposes that the amount which is brought into India and is to be charged is income, and, if that be so, how does it necessarily lose its character, because it represents several years' accumulations, and why should there be a discriminating scale of rates applicable with retrospective effect? After all, as the minority in the minute of dissent point out, the remedy lies entirely in the hands of the recipients of this income. They can go on transmitting that income to this country from year to year. Therefore, I say that there is no justification, either legal or moral, for making any such provision to assist people who want only to evade their proper and just liability.

**Several Honourable Members:** The question may now be put.

**The Honourable Sir Brojendra Mitter:** Sir, I want to speak only on one point which has arisen out of the speech of my Honourable friend, Sir Cowasji Jehangir. As I understood him, he said that the law allowed accumulation of foreign income. Since the law allows accumulation, why should the accumulated income, if it is brought into British India, be assessed at a higher rate? That was his point. Sir, there is a fallacy in this. The law neither allows nor disallows the accumulation of foreign income. A man is free to leave his income abroad or to bring it into this country. The law does not interfere at all either by way of allowance or by way of discouragement. All we are seeking to do is this. A man is free to do what he likes with his foreign income, but when he chooses to bring it into this country, the total of that foreign income must be assessed to the proper tax at the proper rate. That is all we are saying.

**Sir Cowasji Jehangir:** But you are converting the income of five years into one year.

**The Honourable Sir Brojendra Mitter:** No, we are not converting five years into one year. All that we are seeking to do is this. As soon as the foreign income is brought into this country, it will be assessed to income-tax and super-tax. That is all we are saying. It may be an accumulation of two years or it may be an accumulation of 20 years. That does not matter. But as soon as it comes into this country as foreign income, it has to be assessed at the proper rate. That is all we are saying. Sir, the injustice or unfairness is in the *Proviso* itself as framed by the Select Committee. Supposing it is five years accumulation of income. You divide the amount by five. Each division is to be assessed at the smaller rate. Does this *Proviso* provide for interest on that? No. What the man ought to have paid four years ago, he pays four years later and he is not to pay interest on it. Therefore, if there be any unfairness.

4 P.M. the unfairness is in the *Proviso* and not in what we are seeking to do.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That the second *Proviso* to sub-clause (c) of clause 2 of the Bill be omitted."

The Assembly divided:

## AYES—45.

Abdul Hye, Khan Bahadur Abul  
Hasnat Muhammad.  
Acott, Mr. A. S. V.  
Ahmad Nawaz Khan, Major Nawab.  
Allah Baksh Khan Tiwana, Khan  
Bahadur Malik.  
Amir Hussain, Khan Bahadur Saiyid.  
Anklesaria, Mr. N. N.  
Bajpai, Mr. G. S.  
Bhore, The Honourable Sir Joseph.  
Biswas, Mr. C. C.  
Clow, Mr. A. G.  
Dalal, Dr. R. D.  
Dutt, Mr. G. S.  
Dutt, Mr. P. C.  
Ghuznavi, Mr. A. H.  
Gidney, Lieut.-Colonel Sir Henry.  
Haig, The Honourable Sir Harry.  
Hezlett, Mr. J.  
Ismail Ali Khan, Kunwar Hajee.  
Jawahar Singh, Sardar Bahadur Sardar.  
Joshi, Mr. N. M.  
Lal Chand, Hony. Captain Rao Bahadur  
Chaudhri.  
Leach, Mr. A. G.

Megaw, Major-General Sir John.  
Metcalf, Mr. H. A. F.  
Mitchell, Mr. D. G.  
Mitter, The Honourable Sir Brojendra.  
Mujumdar, Sardar G. N.  
Mukherjee, Rai Bahadur S. C.  
Noyce, The Honourable Sir Frank.  
Rafiuddin Ahmad, Khan Bahadur  
Maulvi.  
Raghubir Singh, Kunwar.  
Raisman, Mr. A.  
Rajah, Rao Bahadur M. C.  
Rastogi, Mr. Badri Lal.  
Rau, Mr. P. R.  
Reddi, Mr. T. N. Ramakrishna.  
Ryan, Sir Thomas.  
Schuster, The Honourable Sir George.  
Seaman, Mr. C. K.  
Sher Muhammad Khan Gakhar, Cap-  
tain.  
Singh, Mr. Pradyumna Prashad.  
Tottenham, Mr. G. R. F.  
Trivedi, Mr. C. M.  
Vachha, Khan Bahadur J. B.  
Yamin Khan, Mr. Muhammad.

## NOES—1.

Das, Mr. B.

The motion was adopted.

**Mr. T. N. Ramakrishna Reddi:** Sir, I move:

“That to clause 2 (c) of the Bill, the following further *Proviso* be added:

‘Provided further that nothing in this sub-section shall apply to income from agriculture arising or accruing in a State in India from land for which any annual payment in money or in kind is made’.”

[At this stage Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) vacated the Chair which was occupied by Mr. Deputy President (Mr. Abdul Matin Chaudhury).]

Sir, this amendment has a very chequered career. My friend, Sir Cowasji Jehangir, said with regard to the previous amendment that I had not understood the scope of the amendment I had moved. He might have been correct if he had made that observation in this instance. He did it because I venture to tread on the corns of the capitalist gentleman who made the aspersion. But, Sir, I own that I did not understand the technical aspect of the amendment which I have just moved.

**Mr. Deputy President** (Mr. Abdul Matin Chaudhury): Order, order. The Honourable Member gave notice of the amendment in this form:

“That to clause 2 (c) of the Bill, the following further *Proviso* be added:

‘Provided further that nothing in this sub-section shall apply to income from agriculture arising or accruing in a State in India’.”

The Chair understands that the Honourable Member added some more words after the words “in India”.

**Mr. T. N. Ramakrishna Reddi:** I thought that by adding these words I would make my meaning clearer. I added the words "from land for which any annual payment in money or in kind is made".

**Mr. Deputy President** (Mr. Abdul Matin Chaudhury): Will the Honourable Member kindly read his amendment?

**Mr. T. N. Ramakrishna Reddi:** Now, I read the whole amendment:

"Provided further that nothing in this sub-section shall apply to income from agriculture arising or accruing in a State in India from land for which any annual payment in money or in kind is made."

**The Honourable Sir George Schuster:** I would, Sir, just like to intervene for one moment and say that there has been some discussion about this amendment between the Honourable Member who moved it and the Government side, because, as I explained to the House at the time when I moved for consideration, Government will be prepared to take a certain attitude about this amendment, provided it is worded in a particular way so as to achieve a particular purpose. My Honourable friend has read out some words, but he has omitted three words at the end which are necessary to make clear that it will achieve the purpose in which we are prepared to acquiesce. He has left out the words "to the State".

**Mr. T. N. Ramakrishna Reddi:** This is what is my amendment:

"Provided further that nothing in this sub-section shall apply to income from agriculture arising or accruing in a State in India from land for which any annual payment in money or in kind is made to the State."

I have no objection to add that.

**Mr. B. V. Jadhav** (Bombay Central Division: Non-Muhammadan Rural): Is the amendment intended only to confine income arising within an Indian State or even outside India?

**Mr. T. N. Ramakrishna Reddi:** I am confining only to India, that is, income arising only in States in India. Agricultural income in British India is already exempted under the Act. As I said, Sir, that since I had not the monopoly of wisdom which the Member from Bombay claims to have, I originally framed a defective amendment. It was as follows:

"For the words 'Profits and gains of a business' in sub-clause 2 (a), the words 'Income, profits and gains other than agricultural income' shall be substituted and before the word 'profits', where it occurs for the second time, the word 'income' shall be inserted."

My object was to exempt the foreign agricultural income from the operation of this sub-clause. Then, Sir, as soon as I came to the Assembly, my Honourable friend, Mr. Mitchell, came to me and said that this was technically incorrect and that this amendment, as drafted by me, would not serve the purpose for which I was moving it. Even then I did not ask the help of Government in correcting this amendment. My Honourable friend, Sir Cowasji Jehangir, may gloat over the fact that he is always going to Government for help every time for drafting his amendments. But I myself independently drafted the second amendment which was to amend the very definition of agricultural income, so that foreign agricultural income also could be included under the definition.

[Mr. T. N. Ramakrishna Reddi.]

From the definition of "agricultural income" in sub-section (1) of section 2 of the Act of 1922, I wanted to delete the word "British" before "India" and also at the end add the words "or of a State in India". The amended definition would read as follows:

"Any rent or revenue derived from land which is used for agricultural purposes and is either assessed to land revenue in India or to a local rate assessed and collected by officers of Government or of a State in India as such."

By this amendment I wanted that the agricultural income derived from any Native State and brought to British India ought to be exempted from this taxation even as the agricultural income in India is exempt under section 4. Then, Sir, again I was told that this amendment was outside the scope of the Act itself, because the Act purported to amend section 4 of the Income-tax Act, 1922, and as my amendment related to section 2, it would be outside the scope of the Bill we were discussing. Government were, therefore, kind enough to suggest the present amendment which serves the purpose I have in view. The present amendment is to add a further proviso to clause 2:

"Provided further that nothing in this sub-section shall apply to income from agriculture arising or accruing in a State in India from land for which any annual payment in money or in kind is made to the State",

and I must acknowledge my thanks to the Government for giving this help in drafting this amendment; I would not have taken the time of the House by narrating this occurrence had not my Honourable friend from Bombay sought to convey an innuendo against me that I asked Government's help in moving my previous amendment.

**Sir Cowasji Jehangir:** Mr. Deputy President, may I explain that I did not make any allegation. I said exactly what I intended to say, namely, I congratulated my Honourable friend on being able to get the assistance of Government, which he himself now acknowledges.

**Mr. T. N. Ramakrishna Reddi:** My Honourable friend ought to know that when we were discussing the amendment with regard to the second *Proviso*, I had not taken the help of the Government in which they were vitally interested, and I have not sought their help in this instance also, but I was given the help. However, as my Honourable friend says that he meant no innuendo, I also withdraw the remarks that I have made against him.

Now, after the amendments that have been carried today, the result would be this, that under sub-section (1) of section 4 of the Act, as it stands, all foreign incomes, if they are received in British India, whether they are derived from business, whether they are from securities, whether they are from agriculture or any other source, if they are received in British India, are liable to taxation. But one can evade this sub-section by receiving the foreign income in a foreign State and then bringing it into British India whether that year or next year and escape taxation. That is the scope of section 4, sub-section (1) of the Act. In sub-section (2) of section 4, one exception has been made with regard to income arising out of "business". If the income arising from business, according to the present Act, is brought into India or is received in India within three years, it is liable to be taxed, and if it is

not brought within three years, but brought into India afterwards, then it is not liable to be taxed. By the amendments that have been carried in this House under this Bill, the distinction between income arising out of business and that arising out of any other form of foreign income is removed. Hereafter any foreign income, whether out of agriculture or securities or business, if it is brought into British India or received in British India at any time is liable to taxation according to the amendments that we have carried today. But under section 4 of the Act of 1922, agricultural income is exempt from income-tax. There is a special definition in regard to "agricultural income": it must arise from lands in British India and that land must be liable to assessment of tax or any cesses to be collected by the British officials. So agricultural income has got this technical meaning. That being so, that alone was exempted under the operation of section 4 (2) and it has not been touched by the amendments carried today. The effect of the amendments that have been carried is that agricultural income arising in a foreign or Indian State, if brought or received in British India, will be liable to tax. The purpose of this amendment is that agricultural income that arises in any State, if it is brought into British India, should escape and should not be made liable to income-tax, because, when once you have exempted agricultural income from taxation, which arises in British India, it is only just and equitable that you should exclude agricultural income that arises in Indian States from taxation. Land revenue is an important source of income to the Government. If you again impose a tax on agricultural income it will be in the nature of a double taxation. Further, the landholder is always exposed to local cesses, educational cesses, road cesses, and so on. He has at present to pay one anna and nine pies as local cesses in the rupee of the assessment he pays to Government. For all these reasons agricultural income in India is exempted, and I want to get the same exemption for that income arising in Indian States, coming into British India. I say that if any income arises outside British India and is received in British India, even after my *Proviso* is carried, it is liable to taxation. It comes under section 4 (1), which has not been changed. This *Proviso*, therefore, exempts agricultural income which has been received in an Indian State, but subsequently brought to British India and that alone escapes taxation. That is the difference between the agricultural income and other foreign incomes which are liable to taxation under clause 2. The Honourable the Finance Member said yesterday that the Government would not stand in the way of getting this *Proviso* passed if it did not take away the existing liability and would help me to delete any clause which would impose additional liability in so far as foreign agricultural income was concerned. Now, this amendment does not take away the existing liability, because under section 4 (1) of the Act this income in an Indian State, if received in British India, is liable to taxation. Under this *Proviso* agricultural income arising in an Indian State is exempt from taxation if received in an Indian State and then brought to British India. That is the limited scope of this provision and I am sure that Government will find no difficulty in accepting this modest amendment . . . . .

**Mr. B. V. Jadhav:** On a point of explanation. May I ask my Honourable friend what distinction he makes? Does he mean to say that the tenant should pay the rent in British India?

**Mr. T. N. Ramakrishna Reddi:** No; that is not so. All agricultural income arising in British India is exempt. That is clear. This *Proviso*



[Mr. T. N. Ramakrishna Reddi.]

refers to income arising in Indian States in India—Hyderabad or Mysore or Nepal or any State—it is exempt if it is received in an Indian State in the first instance and then brought to British India; and by this Proviso it is not necessary that the landholder should pay money alone as assessment to an Indian State: it is enough even if he pays rent in kind . . . .

**Mr. B. V. Jadhav:** My difficulty is this: that under the present law agricultural income from land in an Indian State, if brought into British India, is liable to income-tax . . . . .

**Mr. T. N. Ramakrishna Reddi:** No, it is not so: if received in British India, then it is liable to taxation. But if the income is received in an Indian State and then brought into British India, it escapes taxation, because under section 4 (1) it is said:

“Save as hereinafter provided, this Act shall apply to all income, profits or gains, as described or comprised in section 6, from whatever source derived, accruing or arising or received in British India or deemed under the provisions of this Act to accrue, or arise, or to be received in British India.”

So, under this, foreign agricultural income is liable and my amendment removes one difficulty. As we have amended sub-section (2) of section 4 today, foreign income, not only received in British India, but brought into British India in any year is liable to taxation. My *Proviso* would help foreign agricultural income to this extent: that is, if any income from agriculture in a State is received in British India, it is liable to taxation, but if it is received in an Indian State, and then brought into British India, it remove the liability. That is the distinction.

**Mr. B. V. Jadhav:** My difficulty is still there, because at present the agricultural income on land in an Indian State is received there and then brought here: so it is liable to income-tax: so what difference will this amendment make?

**Mr. T. N. Ramakrishna Reddi:** This difference: after the amendments we have carried today, the agricultural income arising in an Indian State, even if it is brought or received in British India, is liable to taxation as any other foreign income. because we have amended sub-section (2) of section 4 to include income or profits or gains and we have removed the word “business”. The effect is that all foreign incomes, from whatever source derived, whether received in British India, or received in the first instance in an Indian State, or foreign State, and subsequently brought into British India, either within three years or at any other time, are liable to Indian Income-tax. If my amendment is not carried, then the agricultural income arising in a State outside British India and brought into British India or received in British India, in either case is liable to taxation. My amendment helps in this way, that agricultural income which is received in an Indian State and then brought into British India escapes taxation. So far, it helps agricultural income. That is to say, any man who is residing in British India and who has lands and agricultural income in Indian States, if only he receives the agricultural income in the Indian State and then subsequently brings it over to British India, he escapes taxation . . . . .

**Mr. B. V. Jadhav:** The process is very easy.

**Mr. T. N. Ramakrishna Reddi:** Practically such a man escapes taxation. That is the result of my amendment. With these words, I place my amendment before the House.

**Mr. Deputy President (Mr. Abdul Matin Chaudhury):** Amendment moved:

“That to clause 2 (c) of the Bill, the following further *Proviso* be added:

‘Provided further that nothing in this sub-section shall apply to income from agriculture arising or accruing in a State in India from land for which any annual payment in money or in kind is made to the State.’”

**Mr. B. V. Jadhav:** Sir, I belong to an agricultural community, and I have always the interest of the agriculturist at heart. I feel that the present land revenue system is grinding down the agriculturist and he is not getting even the fruits of his labour in the cultivation of land. But, Sir, the condition of a tenant or a cultivator under a landlord is much worse than the condition of a tenant under Government. I am speaking about the *ryotwari* system in Bombay. I have no personal experience of the system in other parts of British India, but in Bombay most of the cultivators who are tenant proprietors pay their revenue directly to the Government and cultivate the land. Even in their case the present assessment is very heavy and their profits are very meagre, and, in these days of low prices of foodstuffs, they can hardly make both ends meet; but the condition of a tenant under a landlord is still worse. The landlord takes, in the shape of rent, twice, thrice or even four times the rate charged by Government as assessment. In Indian States the conditions are almost the same, the only difference is that generally on an average the land assessment per acre in an Indian State is much heavier than that for similar land in British India.

Now, the amendment of my friend from Madras is this. If, say, A owns land in an Indian State and gets about Rs. 5,000 in the shape of rent from his tenant, and if he brings that amount into British India and spends it in British India, he will not have to pay the income-tax. Am I correct, Mr. Reddi?

**Mr. Deputy President (Mr. Abdul Matin Chaudhury):** The Honourable Member should address the Chair.

**Mr. B. V. Jadhav:** If a person, say, A gets Rs. 5,000 in an Indian State in the shape of rent from his tenants and he brings that amount into British India,—at present I think he is paying the income-tax,—he will not have to pay income-tax if this amendment is carried. Am I right?

**Mr. T. N. Ramakrishna Reddi:** Straightaway he receives income in British India, he has to pay a tax under the present Act.

**Mr. B. V. Jadhav:** I mean to say that if he sends a man to collect his rents in the Indian State and if he brings the whole amount into British India, he has to pay a tax, is that so?

**Mr. T. N. Ramakrishna Reddi:** No, it is not so. In this case he receives his income in an Indian State through his agent and subsequently brings it over to British India. In this case, he does not pay income-tax.

**Mr. B. V. Jadhav:** If his tenants directly send the money by money order, then he has to pay. That is a very good distinction indeed. If my friend had moved that those who directly paid money into British India should be saved from payment of income-tax, there would have been some reasonableness, because some money in the shape of money order commission, etc., would come into the coffers of the Government. But, in

[Mr. B. V. Jadhav.]

the regular course of business, these landlords, who are big and important persons, engage agents to look after their lands and tenants and it is these agents who collect the rents and remit the amount to the absentee landlord. If this procedure would lead to get an exemption from payment of income-tax, I think the whole of the revenue amount, which the Government are now realizing by way of income-tax, will have to be remitted. In my humble opinion, Sir, the absentee landlords do not deserve any such consideration. The landlords' business ought to be to remain on the land and to see that improvements are effected on the land and that their cultivators also lead a better standard of life and that these poor cultivators are provided with things necessary for cultivation at the proper time but in the case of absentee landlords the cultivators are left to their own resources. They are in a very miserable condition, and these landlords fatten at the cost of the labour of hundreds of their tenants. Therefore, when these absentee landlords are squandering their wealth in British India in big cities, their tenants are starving. At present the tenants in Indian States are made to pay the land tax, and they do contribute something for the amenities of good government they receive there. Now, if the landlord is to be exempted from the payment of income-tax on the ground that the income is derived from land and that the land pays assessment to an Indian State and not to the British Government, then, Sir, I think this man is evading the payment of income-tax, and it is certainly not right. As a matter of fact, a landlord is nothing but a capitalist. If a capitalist invests his capital in a manufacturing concern or in some trade or industry and if he gets profits from such investments, he is bound to pay income-tax under the present law. But if he invests his capital in land, then the profits he makes should be exempted from payment of income-tax and it is a principle to which I for one cannot subscribe. A landlord, as I said, is a capitalist. He invests his capital in the agricultural industry, because he sometimes finds that his investment will produce better returns in an Indian State, and so if he makes profits in that way, there is no reason why he should not be assessed to income-tax. For instance, I am told there is a big company of English merchants with a capital of five million pounds and they have started agriculture in vast territories under the Aswa dam in Egypt. The crops there are very rich, I am told. The shareholders in this company may claim that the profits derived from this agricultural land should not be assessed to income-tax. The same company or some other similar company had, I think, applied to the Bombay Government three or four years ago for land under the same conditions within the Sukkur Barrage area. If, for instance, such a big concern comes here and cultivates hundreds and thousands of acres of land and makes a huge profit, then the shareholders of such a company can claim that as the profits they derive are from land, they should not be assessed to income-tax. I think that will be absurd. They have invested their capital in that venture and they are making profits and the income-tax officer is entitled to claim a share of those profits in the shape of income-tax. The same is true on a smaller scale of a capitalist who invests his capital in the cultivation of land in an Indian State. I need not pursue this point. I think the distinction which my friend has attempted to draw between income received directly and income remitted through some agency is a distinction without a difference and I, therefore, oppose the amendment.

**Mr. K. P. Thampan** (West Coast and Nilgiris: Non-Muhammadan Rural): Sir, one of the chief objections I had urged against this Bill on the first reading was that agricultural income was sought to be brought within its purview. Some of the landholders in British Malabar hold lands in the adjoining Cochin State even as some Cochin people hold lands in British Malabar. With regard to people who live on the border, it often happens that their houses are situated in British territory while they hold lands within a few yards of their houses in the adjoining Cochin territory. It is also a matter of every day occurrence that British Indians invest their money in Cochin lands and *vice versa*. As a matter of fact, there are several families that own such lands. They form into a homogeneous community with common ties of religion, marriages and other social attachments. The incidence of taxation on land is already very high and with the low price of produces the ryots are not in a position even to pay the ordinary land assessment. Sir, you may have read in the paper that recently the Madras Government gave a remission of 12½ per cent of land assessment in certain districts. Things are so bad that it is only fair and proper that agricultural income from Indian States, which are already taxed, should be excluded from the scope of the Bill. I have great pleasure in supporting this amendment.

**Rao Bahadur B. L. Patil**: Sir, I propose to move an amendment to Mr. Reddi's amendment and I request the Chair to suspend Standing Order No. 49 and allow my amendment to be discussed. My amendment runs thus:

"That to the amendment of Mr. Ramakrishna Reddi, the following be added: 'and also in any foreign country'."

**Mr. Deputy President** (Mr. Abdul Matin Chaudhury): The Chair would like to hear Sir George Schuster.

**The Honourable Sir George Schuster**: Government would have to oppose that amendment most uncompromisingly.

**Rao Bahadur B. L. Patil**: My request is that Standing Order 49 be suspended. The position is this. Mr. Reddi tabled his amendment very late. In his case, the Standing Order was waived by the Chair. I would request, the same indulgence might be given to me.

**Mr. Deputy President** (Mr. Abdul Matin Chaudhury): The Chair allows the Honourable Member to move his amendment.

**Rao Bahadur B. L. Patil**: I thank the Chair. I move:

"That to the amendment of Mr. T. N. Ramakrishna Reddi, the words 'and also in any foreign country' be added."

My object in moving this amendment is this. Mr. Reddi's amendment mainly helps people, originally the residents of Indian States who come into British India for business or service or for some other convenience of their own, and, at the same time, receive income from land situate in any Indian State, but there is another more deserving class. That class of people belongs to British India and goes out to foreign countries like South Africa and East Africa to carry on farming. I come from Bombay, and my Presidency has sent a large number of people from Gujerat to South Africa and East Africa.

[Rao Bahadur B. L. Patil.]

[At this stage Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) resumed the Chair.]

Some are carrying on agriculture on a large scale and some on a small scale. I say they are a deserving class of people, because they go from British India. I am not in a position to know on what grounds Government oppose this amendment. In my humble opinion, the people who carry on agriculture in foreign countries and people who receive agricultural income from Indian States are on an equal footing. People who go to foreign countries for augmenting their income do enrich the country when they bring in their income after some time and it will be, therefore, unjust to prevent this emigration. The population of India is increasing day by day and it would be unwise to prevent such an efflux from this country. With these words, I move my amendment.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Will the Honourable Member read his amendment once again?

**Rao Bahadur B. L. Patil**: My amendment is:

"That to the amendment of Mr. Reddi, the words 'and also in any foreign country' be added."

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Then the amendment of Mr. Ramakrishna Reddi, as modified by Mr. Patil, will read as follows:

"That to clause 2 (c) of the Bill, the following further *Proviso* be added:

'Provided further that nothing in this sub-section shall apply to income from agriculture arising or accruing in a State in India *and also in any foreign country* from land for which any annual payment in money or in kind is made to the State or to the foreign country.'

That will be the form of the amendment?

**Rao Bahadur B. L. Patil**: Yes, Sir.

**The Honourable Sir George Schuster**: Sir, I think it would be as well if I intervened very shortly to state what the Government's position in this matter is. As regards Mr. Reddi's amendment, the position which I explained to the House on the first day of this debate was this, that in the course of the earlier stages of the discussion of this measure, the point had been raised from a great many different sides of the House that the measure would impose a new liability on income from lands in Indian States which accrued or was received by residents in British India. The request then was made that that point should be dealt with in Select Committee, and I myself said that that would be an appropriate point to be discussed in Select Committee. The point was not, as a matter of fact, raised in the Select Committee, and, therefore, when I moved for consideration, I took this position with the House. I said that if, in the opinion of the House, it was not desirable to utilize this measure to alter the position as regards income from agriculture in Indian States, if the majority of the House wished to maintain the *status quo* as regards that income, Government would be prepared to remain neutral; that is to say, that we did not necessarily seek to use this measure to alter the position as regards that particular class of income, because that was not

what we really had in mind in formulating this measure. We, therefore, said that if an amendment was moved which had the effect and no more than the effect of maintaining the *status quo* as regards income from agriculture in Indian States, we would not oppose that amendment, but we would remain neutral and allow the House, without the Government Members, to decide. That is our position. I think the matter is a little complicated and I think my Honourable friend, Mr. Reddi, in moving the amendment was dealing with a rather complicated aspect of the position which perhaps would not be fully understood: At any rate in relation to his speech, I wish to make the Government's position quite clear, and our position is a clear and simple one, namely, that if, in the opinion of the House, it is not desired to use this measure for altering the *status quo* as regards income from agricultural land in Indian States, then Government are prepared to allow the House to take a decision to that effect without themselves intervening. We understand that the amendment, as moved by my Honourable friend, Mr. Reddi, will have exactly that effect, that is to say, the effect of maintaining the *status quo* as regards income from agriculture in Indian States. I think, Sir, as I am speaking on this point, I should say that it is very likely that the Government later on will find that that is a position that cannot be permanently maintained. But it is a matter which requires a good deal of careful investigation, and as I say, we are quite contented with this measure if it has the effect at which we are chiefly aiming, and if it does not alter the position as regards income from agriculture in Indian States. That, Sir, is our position. Government do not propose to vote on this amendment.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty). What will be the effect of Mr. Patil's amendment?

**The Honourable Sir George Schuster:** I am glad, Sir, you have reminded me of that. As regards that, Government certainly would have to take a very different attitude. We merely had in mind the position as between British India and the Indian States and we had that in mind, because we know that there are a great many complicated relations which have grown up in the past. But as regards land held outside India, that is in quite a different category. We see no possible reason for making any distinction as regards income from land outside British India, and Government will have to oppose Mr. Patil's amendment.

**Raja Bahadur G. Krishnamachariar** (Tanjore *cum* Trichinopoly; Non-Muhammadan Rural): Sir, I thank the Honourable the Finance Member for having so kindly and sympathetically considered the question of agricultural income from Indian States and, on the first day, when he enunciated the condition upon which the Government would refrain from voting, I confess that it was not quite possible for me to follow exactly, the position, namely, that it preserves the *status quo ante* and, at the same time, creates the exemption. Even now I have no objection to confessing that it is somewhat difficult for me to translate the proposition into a concrete case and to find out and determine which is the position which will make the *status quo ante* stand as it is and which otherwise. However, Sir, as my Honourable friend has stated that Mr. Reddi's amendment satisfies the requirements, so far as the Government are concerned, I do not want to pursue the matter and take up the time of the House in order to work out an arithmetical sum and to find out how far, if at all, the position would be satisfied. I would therefore,

[Raja Bahadur G. Krishnamachariar.]

Sir, again repeat my thanks to the Government and I do hope that in the actual administration of this *Proviso*, the result expected by the Honourable the Finance Member would flow and I would request the Honourable the Non-Official Members to have some little sympathy towards the agriculturist and unanimously to vote in his favour on this one matter which fortunately for us we have been able to obtain from the Government.

Sir, when this Bill was first introduced in 1931, I did speak somewhat strongly as regards the rights of the agriculturist and last time, when it was referred to the Select Committee, I was one of those who raised this question again and said that the matter ought to be decided in the Select Committee. Fortunately the Government agreed, but unfortunately Sir, none of the Non-Official Members ever remembered what happened and they did not raise the question. That, Sir, adds to the value of the Government concession which has been specifically made today, and, in those circumstances, I would respectfully ask the non-official side of this Honourable House to vote for the amendment moved by Mr. Reddi. There is only one other matter. I do not know how far it would affect the principles enunciated in the speech made by my friend, Mr. Jadhav. He may of course be perfectly acquainted with the conditions in Bombay and I am not sure even as regards that, but when he proceeds to the Indian States and talks of absentee landlords, etc., he talks of a thing which he does not understand, and which has absolutely no relevancy whatsoever here, and having read of these absentee landlords in certain declamations against this unfortunate class of people, he has repeated them here in this House. Sir, it has absolutely nothing to do with the case. No big landholder in an Indian State or in British India can actually collect the money himself, but so far as *ryotwari* people are concerned, they have got to remain there day in and day out in order first to take advantage of the season, then to cultivate to the best advantage, and last but not least, to reap the advantages of the cultivator. Therefore, I would ask this House to disregard this rift in the flute and unanimously vote for this concession.

**Mr. N. M. Joshi:** Sir, I rise to oppose the amendment of Mr. Reddi together with the further amendment moved by Mr. Patil.

5 P.M. The question whether agricultural incomes should be taxed for purposes of income-tax or not is an open one and I do not wish to discuss it today. Personally I hold that there is nothing wrong in assessing agricultural incomes for income-tax also. But today we are not dealing with that question. Today we are dealing with the question of incomes which British Indian citizens derive from Indian States with reference to agriculture. In this connection, I do not understand why any difference should be made between an income derived from agricultural operations in an Indian State and an income derived from agricultural operations conducted, say, in Australia or in Canada. The Indian States take up the attitude as regards British India that they have absolutely no connection with British India. They say that the only connection that they have with British India is the Crown. We are living under a common Crown. There is no other connection which the Indian States recognise with British India. So long as this is true we in British India should have no reason why we should distinguish between an Indian State and, say, the Commonwealth of Australia or Canada. We

are not going to exempt incomes derived from agricultural operations in Australia or in Canada. Therefore, why should we exempt incomes derived from agricultural operations in Indian States at all.

**An Honourable Member:** Why take customs from them?

**Mr. N. M. Joshi:** The question of customs is quite different which we need not discuss now. That is a large question and it has nothing to do with the question which we are discussing now. I know this much that all the Princes have taken up this attitude that they have absolutely no connection with British India. The only connection between British India and the Princes is that we are living under a common Crown. If they take up that attitude, there is absolutely no difference to be made between the agricultural operations in Australia and the agricultural operations in Indian States.

**Mr. S. G. Jog:** The question here is not as between the Rulers of Indian States and British India; but the question is as between the subjects of Indian States and the citizens of British India.

**Mr. N. M. Joshi:** I am dealing with States and British India and not with the subjects of Indian States and British India. What I am dealing with is the position of the Indian States and the position of British India. In this connection what we have heard from the rulers of Indian States is that there is absolutely no connection between them and British India except that they are living under one Crown. If we exempt incomes derived from Indian States from our income-tax, is there any guarantee that the rulers of Indian States will exempt incomes made in British India from the tax which they levy. It is, therefore, much better that we should go on with our taxation without giving any consideration to the fact that the income was derived in an Indian State or in the Commonwealth of Australia. I, therefore, think that we should not accept the amendment proposed by Mr. Reddi.

**Sir Cowasji Jehangir:** Sir, so far as I am personally concerned, I am quite prepared to support this amendment and the reason is that the subjects of Indian States are so mixed up with the subjects of British India that it is very difficult to have a demarcating line between the two. If incomes from agriculture are free of income-tax in India, I do not know why there should be such a great distinction between incomes from land in India and incomes from land in Indian States if the recipient happens to be a resident in British India. In those circumstances, I think it is a reasonable amendment to demand of Government. I trust the House will accept it. With regard to the amendment of my Honourable friend, Mr. Patil, so far as I understand it, it goes too far. India is one united whole and Mr. Joshi must forget that British India and Indian States are separate entities. We are aiming at a united India and any steps that go towards making a united India are welcome. In these circumstances, I trust that the House will immediately accept this amendment.

**Mr. Muhammad Yamin Khan:** Sir, I support the amendment of Mr. Reddi and I do not see my way to support Mr. Patil's further amendment, because we are not concerned with the agricultural income from outside



[Mr. Muhammad Yamin Khan.]

India. I do not see any reason why a principle, which is accepted and adopted with regard to British India, should not be accepted with regard to Indian States also. In Indian States, people are paying land revenue. The principle why agricultural income is exempted from income-tax is this that the people who are engaged in agriculture pay to the State a large portion of their income in the shape of land revenue. Land revenue is paid both in British India as well as in Indian States and there is no reason why these people should pay a double tax. One principle which has been advocated and accepted by the Government is this that the people who are living in India and derive their income from outside India should not pay their income-tax in the country in which the income is drawn. Therefore, if a man pays land revenue in an Indian State, he should be exempted just as the man who pays land revenue in British India is exempted. So, I do not see any force in Mr. Joshi's argument. I think it will be advisable that the Government should accept this amendment, because this is the most reasonable amendment and it found a great deal of support when this Bill was introduced. We found that there was a lot of agitation about this matter, and people, who were anxious to oppose this Bill, thought that this amendment would be accepted by the Government. With these words, Sir, I support the amendment moved by Mr. Reddi.

**Rao Bahadur B. L. Patil:** In view of the overwhelming opposition in this House, I beg leave to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That to clause 2(c) of the Bill, the following further *Proviso* be added:

'Provided further that nothing in this sub-section shall apply to income from agriculture arising or accruing in a State in India from land for which any annual payment in money or in kind is made to the State'."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**The Honourable Sir George Schuster:** Sir, I move that the Bill, as amended, be passed.

The motion was adopted.

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### THE SAFEGUARDING OF INDUSTRIES BILL.

**The Honourable Sir Joseph Bhore** (Member for Commerce and Railways): Sir, I beg to move:

"That the Bill to provide for the imposition of additional duties of custom<sup>s</sup> on imported goods for the purpose of safeguarding industries in British India be taken into consideration."

I venture, Sir, to express the hope that neither in regard to the purpose of this Bill nor in regard to the form of this measure will there be any serious difference of opinion in this House. If we are asking for extremely wide powers, I would like to assure the House, and through the House a wider audience, that we are actuated by no feelings of ill-will or unfriendliness towards any nation or country in the world. We are merely taking to ourselves defensive weapons to enable us to protect our own industries and those who depend upon those industries for a livelihood.

Let me say a few words in regard to the purpose of this Bill. I need only recall the debate which took place in this House last month on the motion for the demand under the head of Customs. On that occasion it is true that strong pleas were put forward that the interests of the consumer should not be sacrificed, but I think there was an almost unanimous expression of opinion that Government should do all in their power to prevent Indian industries being submerged by the rising tide of foreign invasion which had been rendered possible by certain special conditions. The view of the House on that occasion, it seemed to me, merely reflected the general view that prevailed in the country. I may say that the matter had at that time been receiving our active consideration, but at the time of the debate we had not come to a definite conclusion as to the course which we should adopt. The effect of that discussion, however, endorsed as it was by general feeling in the country, helped us definitely to come to a final conclusion, a conclusion which finds expression in this measure which is now before the House. Sir, I could give specific instances to illustrate the necessity for the possession of the exceptional powers that we are now asking for. I have here representations with me from something like twenty or thirty industries pointing out the position to which they have been reduced by the present uneconomic competition. But I venture to think, Sir, that in view of facts which are notoriously matters of common knowledge in the country today, it is unnecessary for me to attempt to justify the purpose of a measure which, I venture to think has so large a volume of public opinion behind it. I would like, however, to say a few words in regard to the form of this Bill, and in doing so I would like to concentrate on three main points.

Firstly, I would like to refer to the duration of this measure. Under clause 2, the duration of this measure will be limited to a period which will not extend beyond the 31st March, 1935. We fully realise that this is a somewhat hastily conceived measure. We have not had time to do more than frame it in general terms to permit of the conferment of effective powers upon us to deal with emergencies which we cannot entirely foresee. Economic conditions throughout the world are in a state today of the most complete uncertainty. We do not know what a day may bring forth and we certainly do not know what problems we may be faced with tomorrow and how we shall have to deal with them. In these circumstances, Sir, we could do no more than ask for general legislative authority for taking action to meet emergencies as they arose until such time as it was possible for us to see the position more clearly. This is more or less of the nature of a stop-gap measure. It gives us a breathing space; it enables us to look round, to view economic conditions in the world and, if necessary to bring forward a more complete, a more scientific and a less general measure than that which is now placed before the House.

[Sir Joseph Bhore.]

That, Sir, brings me to my second point and that is the powers that we are now asking for. They are extremely wide powers but in the nature of things I feel that it is inevitable that we should come and ask for powers of this character. The House will perhaps bear with me if I refer briefly to our general protection policy, to the effect of these powers upon that policy and to the reasons underlying the request for such powers. So far as our policy is concerned, I need hardly say that we stand where we have always stood. Our policy continues now as in the past to be a policy of discriminating protection. I would, however, like to clear up a possible misapprehension here. Under that policy certain industries have been given definite protection by this Legislature. So far as those industries are concerned, they are in no way dependent upon this measure for the maintenance, at an adequate level, of the protection already granted to them by the Legislature. But, Sir, outside the limited circle of these definitely protected industries there have grown up a large number of small and moderate scale industries. Behind a heavy revenue tariff, these young and nascent industries have begun slowly to establish themselves in this country. So far as I know, the bulk of these industries have never asked for protection against normal competitive conditions, and even if they did so, I do not think that the bulk of them would qualify for protection under our existing policy. But, Sir, what these industries now ask for is that the wholly abnormal and uneconomic competition, the wholly extraordinary competitive conditions with which they are now faced should not be allowed to operate to their detriment. What they are asking for is that the special conditions on which the foreign competitor relies other than manufacturing efficiency, should be neutralised, so that they may be able to compete on fair and level terms. What we are now asking the House to do is to give us powers to enable us to neutralise those special conditions which are prevailing in some foreign countries. Now, Sir, I will no doubt be asked what those special conditions are and whether it is not possible to define them with greater exactness? Obviously one of those conditions is a depreciated currency, but Sir, that need not necessarily be the only condition and it may not be even the most important consideration. Even if a depreciated currency is operating, it may be very difficult, almost impossible, for us to say whether the abnormally low prices prevailing are due merely to a depreciated currency or whether they are also due to other special conditions. In these circumstances, Sir, it is, I think, unwise for us to attempt to limit the definition of special conditions, for, if we confined ourselves to one special condition, as for instance, a depreciated currency, and made provision for that alone, we might find that other special conditions arose or were brought into being which would make it impossible for us to give our industries the protection that they needed. That, Sir, will, I think, explain what object we really have in view in asking for these wide powers. It is our intention to use these powers not indiscriminately to grant protection to every industry that may ask for it but it is our intention to use these powers as far as possible to neutralise the effect of special conditions prevailing in foreign countries which enables them to compete with our own industries on a wholly uneconomic level.

I come, Sir, then to my third point, which is contained in clause 3 of the Bill. That clause secures for this Assembly the ultimate control

over any such action as the Executive may take under the wide powers that have been asked for under clause 2. I recognise that had we come to the Assembly and merely asked for these wide powers, it would have been extremely difficult to justify such a request without the provision contained in clause 3. I have tried to explain, Sir, why it is that we have asked for wide powers. These powers, I venture to think, are necessary if we are to act rapidly and if we are to act effectively, and I hope that the House will find no difficulty in granting us those powers, having regard to the provision which is contained in clause 3 of the Bill.

Then, Sir, I ought to say one word as to why we have left it to the end of this Session to bring forward a measure of this importance. I may say that we have been considering this matter for a considerable time. We had hoped that it might not be necessary for us at all to bring forward legislation of this description. We had hoped that the operation of natural economic factors would enable us to meet foreign competition which had been made possible by a depreciated currency. But, Sir, as I explained in this House sometime ago those anticipations of ours failed to materialise. Let me again repeat what I said on that occasion. I pointed out that, as the Tariff Board have shown, the real danger is not so much from a depreciated as from a depreciating currency. When a currency has come to a position of more or less stable equilibrium, then other economic factors come into play and act as a counterpoise. So far as Japan is concerned, there has undoubtedly been a steady increase in the cost of living, but unfortunately that has not been reflected in the import prices of commodities from that country or, if it has been reflected, the effect has been very slight indeed. In these circumstances, Sir, we had no option but to proceed with the measure which we have now brought before the House. Having come to that conclusion, however, Sir, it was not possible for us to take a decision and come forward with a measure to this House within 24 hours. There were other things to consider. We had, for instance, to consider the effect of that decision on our foreign Treaty obligation. Here, Sir, let me make the position as clear as I possibly can, for I do not want there to be any misapprehension, any doubt, any ambiguity. The position is this that imposition of duties under this Bill, if passed, is inconsistent with the most favoured nation clause. Now, Sir, we have at the present moment a Trade Agreement with Japan which confers upon her most favoured nation treatment. So long as that treaty remains, it is impossible for us to impose duties under this Bill . . .

**Mr. C. S. Ranga Iyer** (Rohilkund and Kumaon Divisions: Non-Muhamadan Rural): Why not denounce it?

**The Honourable Sir Joseph Bhowe:** I am coming to that; but that treaty contains a clause by which it may be denounced at six months' notice, and I may inform the House that we have taken steps to denounce the treaty with Japan. (Cheers.)

That covers most of the ground which I wished to cover this afternoon. It remains for me only to ask the House whole-heartedly to accept a measure, conceived, I venture to hope, entirely in the interests of Indian industries and actuated, as I have said, by no feeling of ill-will or enmity towards any country in the world. Sir, I move. (Cheers.)

**Mr. B. Das** (Orissa Division: Non-Muhammadan): Sir, I congratulate my Honourable friend, the Commerce Member, on his admirable exposition of the subject matter contained in this Anti-Dumping Bill. There were many doubts—many a cob-web—in my mind and not only in my mind, but in the minds of many of the Honourable Members of the House; and the Honourable the Commerce Member's clear statement of the facts on which he has brought out the Bill has dispelled some of the doubts that I entertained when I first read the Bill. When I first read the Bill, I thought "Hullo, here is another Ordinance", and I said: "This Ordinance is not milk and water as certain friends described the Ordinances which my Honourable friend, Sir Harry Haig, brought forward. This gives drastic and absolute power to the Commerce Member to adopt a policy, and today I have no confidence in this Government. How can I allow these drastic powers to this Government?" Well, Sir, while I was listening to the very clear exposition of the subject, I was feeling that I was listening to my friends in another atmosphere, to my Congress and nationalist friends when they deliberate in the interests of the nation; and today the Indian Commerce Member of the Government of India is putting forward a proposition that will meet the Congress demand and the national aspirations. This country has not yet adopted a policy of absolute protection. When my friend said that this Bill still adheres and the Government of India still adheres to the policy of discriminating protection, I shouted "Hear, hear". I am glad my friend explained that the Government of India still stick to the policy of discriminating protection in spite of the clamour of the great industrial magnates that are present on the floor of the House and outside, that a high tariff wall should be raised for the protection of Indian industries: the country is not yet come to that stage when we can say, like the Conservatives in England that a high tariff wall should be raised in order to improve the export trade of England. Today, the Indian mind, be it Congress or non-Congress, be it capitalist or non-capitalist, except a few capitalists that may be particularly interested in particular industries, cannot subscribe to the principle of complete non-discriminating protection. India must go slow, and I am grateful to my Honourable friend, the Commerce Member, that he laid stress on that point.

The second point for which I am grateful to my Honourable friend, is this: he said that there is no evasion of the control of this Legislature. When I perused the Bill that day, I thought "Why should not the Honourable the Commerce Member or the Honourable the Leader of the House pass another Bill and then dissolve this Legislature? There is no necessity for the existence of the Legislature if all the powers are vested by Bills which are almost Ordinances like these." But then my friend says that there is utility in this Legislature whenever any tariff is put on any particular goods that are imported into this country, it will be laid on the floor of this House; but this Legislature has another supreme duty: it keeps to itself the power of legislating for discriminating protection—granting discriminating protection to certain industries. I am glad, my friend, the Commerce Member, made it clear that protected industries, whether sugar, or cotton piece-goods or cotton yarn or steel industry are excluded from the scope of this Bill and this Bill does not take away the power of this Legislature further and deliberate over granting further protection to such industries. Of course somehow the suspicion grew in my mind; there is going to be a steel protection inquiry; there is already

in the archives of the Commerce Department or very likely on the table of my friend, the Commerce Member, the report of the Tariff Board as how to give further protection to the cotton textile industry; and the Honourable Member has already assured this House that he will bring forward a Bill in the next Session. But I am not a lawyer and somehow when I read this Bill or Ordinance, I thought my friend had got absolute power. Anybody will go to him and ask him to give protection and then he will give protection and the power of this Legislature becomes null and void. I am glad that under Providence this Legislature has still got certain powers to regulate its policy of discriminating protection. I was one of the few on the floor of the House who have always declared that there should be anti-dumping legislation, because there is a menace . . .

**Sir Muhammad Yakub** (Rohilkund and Kumaon Divisions: Muhammadan Rural): There is no dumping on the floor of this House!

**Mr. B. Das:** My friend, Sir Muhammad Yakub, knows that there is dumping of too many Bills by the Government, because there is dumping of goods outside. I am sorry to think that this menace comes from an Asiatic country, and I have already observed on previous occasions—I am not a diplomat and I am not going to speak in the diplomatic language which my Honourable friend, the Commerce Member, used—I will not mince matters as my friend did—I have declared before and I declare it again that Japan is becoming an Asiatic menace and a world menace. By her inhuman treatment, by her conquest policy in China, Japan is looked down upon throughout the length and breadth of India as a curse. It is thought of today in the same way that Germany was thought of in 1914-15. So, holding that view and knowing that Japan has no policy, no civilised policy, no humanising policy, that it has only a policy of conquest, I should like to shut out Japan completely from India, because like the old policy which England adopted of selling her goods in India slowly and got hold of Indian capitalists and Indian merchants and captured the Indian markets and eventually conquered India, Japan is also doing the same thing. There is no doubt about that whatever. They have done so in Bombay. The Japanese capitalists control a large number of Indian businessmen who sell their piecegoods and other articles. The Japanese interests are so much interwoven with Indian interests, not only in the Bombay City, but all over the Presidency, that they are really a menace to this country. Like Ralli Brothers, these Japanese firms are financing cotton growers and buying cotton at very low prices in different villages and in various parts of the Presidency. It is an aggressive penetration into the economic life of India, and it is certainly a great menace to this country. I want that Japanese goods should be shut out from this country. I do not want to talk in diplomatic language. Legislation should be undertaken to see that things are not imported not only from Japan, but from any country and sold at an uneconomic price in India . . .

**An Honourable Member:** Declare a war. Are you prepared for a war?

**Mr. B. Das:** I am prepared for a war with Japan, and if a war is declared, it is the British Empire which will have to go to war, and

[Mr. B. Das.]

here I speak as a member of the British Empire. This industrial competition will lead to a war.

Sir, my friend, the Commerce Member, tried to define the conditions, the only condition that he could recall from his memory or from the archives of the Commerce Department and said that there was the question of the depreciating currency, but he could not say how the depreciating currency was helping Japan to dump her goods on India, and how other factors were able to do it. I am surprised that the large number of experts that my friend, the Commerce Member, has under him, not to talk of the experts in his other portfolio, I mean the Railway Board,—I am surprised that such a large army of experts under him could not advise him as to what helps Japan to produce her articles so cheap and to dump them on India. Evidently, the experts have lost their intelligence in the Commerce Department. The economists of India or even my friends, the industrialists, with their Chambers of Commerce, have not ascertained as to how the Japanese manufacturers are in a position to dump their goods on India at such ridiculously low rates? There is of course the depreciating currency in favour of Japan, but in addition there is also the State subsidy for shipping freights, and for the goods themselves. Will my friend, Sir Leslie Hudson, the representative of the great shipping interests in India, say,—I have asked him that question before, and I ask him again,—in the matter of Ottawa Preference,—will he say that Indian shipping interests will give Indian goods subsidy and rebates to transport products of Indian industry? I am developing this point to show that when the commercial section of India, whether they are Indian commercial interests or European commercial interests, combine and find it easy to hobnob in the corridor of the Honourable the Commerce Member and ask him to put high tariffs which does not touch their pockets,—because they produce goods and they want the teeming millions to buy them,—when these commercial interests combine to the detriment of the country, the position is really very difficult. I want to know how many of these commercial representatives asked my friend, the Commerce and Railway Member, to reduce railway freights for the transit of these goods from one place to another. How many of these have asked the Government of India to apply pressure on the shipping magnates of India, the shipping interests that are operating on the coasts of India, to reduce their freights? Japan has been able to dump her goods on India, because there is the State subsidy there to the shipping magnates or to the industries themselves.

My friend the Commerce Member, has been very solicitous about the interests of small industries of the country. Each industry is a small industry. I have got with me a memorandum from the glass manufacturing industry in the country. Yesterday representatives of the Gwalior Pottery Works interviewed me about the Gwalior Pottery and Tile Works and they say that the tiles and potteries produced by them in Gwalior, apart from uneconomic competition of Japanese goods, are not able to sell cheaply at Allahabad or Calcutta, because the heavy railway freights operate against them. The same remark applies to the combination of the shipping magnates. The other day I saw my friends, Mr. Mody and

Sir Leslie Hudson, in close embrace, because the Scindia Steam Navigation Company—which is started with Indian capital—started the agitation that European shipping interests should not be allowed to ply their ships on the Indian coasts, and, Sir, we know the result of it; my friend from Burma, who will be permanently separated from us, wanted to end the feud. So the other day I found my friends, Sir Leslie Hudson and Mr. Mody, closely closeted together discussing something, and they have apparently come to some arrangement by which the poor industrialist, the poor agriculturist will have to pay the same rates that my friends Sir Leslie Hudson and Mr. Mody have agreed to charge on all goods transported, whether they are manufactured in India or outside India and whether they are transported on Indian-owned ships or British-owned ships. Sir, these are points that agitate me. When my friend talks and says that he wants to protect the cottage industries, I trust he does not want the cottage industries to thrive in the slums of Bombay that the millowners have created, but everybody wants what Mahatma Gandhi has so often said, what Mr. Henry Ford has said and practised in America, that industries should permeate to the country, and there should be cottage industries developed all over the countryside. Simply by putting a high tariff, you cannot achieve this object, but you must have all the other special conditions in India's favour which my friend wants to explore. Does he want to send experts to Japan? I hope a special committee of experts will be sent to Japan to investigate and find out now Japan is able to produce her goods so cheaply . . .

**Mr. O. S. Ranga Iyer:** After declaring war?

**Mr. B. Das:** I am not declaring a war. Did not my friend, the Commerce Member, say that under the conditions of the most favoured nation treatment, the Japanese are able to compete with anybody in the world market today? There is no war. My friend, Mr. Ranga Iyer, knows too much diplomatic language. There can never be a war. Now, is my friend, the Commerce Member, going to send a body of experts to Japan or similar countries that have the chance of dumping their goods on India, to study what facilities the various States offer to their people to produce their goods at such ridiculously cheap rates and sell them at an almost uneconomic price in this country, and whether this dumping can be counteracted only by raising the high tariffs or by reducing the railway freights or by compelling my friend, Mr. Mody, and my friend, Sir Leslie Hudson, to combine to reduce the freight charges? It is not always easy to listen to the supplication of these industrial magnates. My friend once only mentioned the interest of consumers. I am glad he mentioned it, but my friend should see that the consumer gets the things he needs for his slender living at an economic price. These industrialists try to produce goods at an uneconomic price knowing that each subsequent Tariff Board, which of course manufactures experts in India under the Commerce Member,—I know how experts differ, how each Tariff Board's report is different from the preceding report, and how the Tariff Board expert's mind also goes abegging in these matters,—they know that each Tariff Board writes out a report, quite different from the preceding report. The country will not recognise that my friend has done everything for Indian industries, particularly the smaller industries, unless he makes it easy for those industries to have an economic transit. Before my friend puts high tariff on imported goods, he must see that



[Mr. B. Das.]

these industries are produced on an economic basis with an economic balance sheet, that these industries do not suffer from some of the diseases from which the Bombay millowners suffer, which were so nicely exposed by my Honourable friend, Sir Frank Noyce, in that admirable report of the Tariff Board on Cotton Textile Industries over which he presided.

Sir, my friend has mentioned of 20 or 30 industries that need protection through this anti-dumping measure. He did not mention their names. We have also received certain representations from some of them. There are the sugar-candy-wallas, there are the hosiery-wallas and the kerchief-wallas. I give my support to the extent that this Bill ensures to those small industries against dumping, but I give no support for any industry that may try to come by the backdoor and get some advantage. We all know, there was a rate war between the Burma Oil Company and the Standard Oil Company of America. We knew that Indian firms started oil companies but they could not succeed. Now, I understand that they have come to some understanding just as my friend, Mr. Mody, has come to an understanding with Sir Leslie Hudson. They have fixed one price at which they sell their kerosene oil. The kerosene oil that is imported from America and Russia is charged a higher import duty than the excise duty that the Burma Oil pays. Suppose they come and beg at the door of the Honourable the Commerce Member. They are powerful interests. They will come and say "here is dumping of oil from Russia". The name of Russia is a bugbear to many of my friends on the Treasury Benches, though it is not a bugbear to me. Then, many will say that Russia has a five year plan of industrialisation and development of agriculture. They may say that Russia will dump wheat and other manufactured goods. Even if India manufactures 001 per cent. of her requirements of any particular article and induces some of my friends of the European Group to go to and tell the Commerce Member to put high tariff against Russian or American goods, what will happen then? These are points that have got to be cleared up. The scare-mongering habit of a certain section of industrialists who are devoting their lives to trade should be put a stop to and Government should not come to any conclusion without making definite inquiries and, therefore, I am anxious to see some amending provision. I have given notice of an amendment. If there is an abnormally uneconomic price prevailing in India, how is the Commerce Member to know? What will be the duration of this inquiry? Is it one week, one month or one year? These are points on which my friend should give us a definite assurance when he replies to the debate which is going on.

Now, my friend, Mr. Mody, with his millions will get this Bill translated in every vernacular language and have it published all over India. Then everybody will come to the Honourable the Commerce Member and say: "Oh, Sir, give us protection. You are the new Messiah". What will my friend, the Commerce Member, do then? What is the criterion which my friend is going to apply? I am anxious to move my amendment, but I have been persuaded by a powerful section outside this House not to move my amendment. Powerful industrial magnates have told me outside this House that I should not move such a reactionary amendment. Probably my brain is befogged. I am a little dull. I cannot see with the same vision as my capitalist friends. They see far

ahead. They ask us to be patriotic and nationalistic. But, Sir, when we discuss nationalistic or patriotic Resolutions or Bills or propositions before this House, we find them entirely absent from their seats. Probably they go away on grouse shooting or some other hobby. If they want our support in these matters, they should also give us their support. Above all, money is not everything. The capitalists' money is not the country's money. When it goes into their pockets, it never comes out for the public good. Every penny that is earned by the workers, who are represented by my friend, Mr. Joshi, is earned by the sweat of the brow of the worker and nothing is done for him. No industrialist makes a donation in spite of all his vaunted patriotism and philosophy of benevolence. These are the points that are agitating my mind and the mind of the House. I do trust that my friend, the Commerce Member, when he replies to the debate will give us an assurance as to how he will apply the test when he is framing rules under this Bill. I want to know how my friend will apply this test to protect the small industries. These are the points that are agitating my mind, but other points will no doubt be taken up by my friends, Mr. Kyaw Myint, Sir Cowasji Jehangir, Mr. Neogy and others.

Sir, I welcome this Anti-Dumping Bill, but I do not subscribe to the highly civilized, superficial language used, namely: "the safeguarding of industries in British India". The proper words should have been merely, an "Anti-Dumping Bill". I am a common man: let me understand the common sense language. I shall give my wholehearted support to this Bill, Sir, if the one point that I have raised is satisfactorily met when my Honourable friend, the Commerce Member, explains to the House how he is going to operate the conditions, apply them to individual cases and how the Department is going to advise the Governor General in Council to put that high tariff against goods imported into India when a particular industry applies for it. I will not move my amendment, but I like to see the Bill through.

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, I welcome this measure; in fact I had been wondering how any Government worth the name was not taking recourse to some measure to protect its industries. But, at the same time, I feel, Sir, that this measure is very drastic and, as my Honourable friend, Mr. Das, said it looks more like an Ordinance. With a National Government I would have blindly supported such a measure, but I know the Government that we have today is not a National Government and that is the reason why I would like that some of the suspicions that are naturally in our mind should be fully removed.

**Mr. F. E. James:** It is a rational Government.

**Mr. S. C. Mitra:** I hope it is a rational Government and is not dictated from Whitehall in the interests of the Britishers alone.

**An Honourable Member:** A Government dictated from Bombay.

**Mr. S. C. Mitra:** Well, Bombay will take care of itself; I know they have sufficient strength and organization, and in this particular Bill it is not necessary to protect Bombay interest, because under the already existing laws also, they could safeguard their interests through the Government. I

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must say that I have great confidence, Sir, in the Honourable the Commerce Member (Loud Applause), and that is one reason why I am even hesitating to raise my voice against the drastic nature of this Bill, but I know, however, that it was truly and wisely said by the great thinker Aristotle that "A benevolent despot is the best ruler, but there is no guarantee that there could be any perpetuity of that good government". Now we are legislating for more than two years. Personally speaking, I would have been glad if I had the assurance that the same Commerce Member will remain for these two years and thus we shall be safe, but as there is no guarantee of continuance, we must judge this measure on its own merits and should not depend upon the personality of the Honourable the Commerce Member alone.

Now, Sir, the different grounds that were given by the Honourable the Commerce Member as to why this measure had not been taken up earlier did not convince me at all. Was he really expecting that there was any chance in a few weeks or a few months that the depreciated currency in Japan would cease to be depreciated? As I look to the genesis of this Bill, I find, Sir, that as late as the 23rd January, Mr. H. P. Mody gave notice of a Resolution which runs thus:

"This Assembly recommends to the Governor General in Council that legislation should be introduced without any delay empowering the Government of India to take prompt executive action as and when necessary to protect indigenous industries against imports of goods from foreign countries which by reason of depreciated exchanges, bounties, subsidies or other artificial circumstances may be sold in India at prices detrimental to an indigenous industry."

Only three days after, on the 26th January, Sir Leslie Hudson gave notice of a similar Resolution.

**An Honourable Member:** It was an identical Resolution.

**Mr. S. C. Mitra:** And on the 10th February, 1933, a notice of a similar Resolution signed by four members of the European Group, namely, Mr. Morgan, Mr. Ramsay Scott, Mr. R. Smith, Mr. Mackenzie, and Seth Haji Abdoola Haroon was sent in, and, on the 4th March, 1933, Sirdar Harbans Singh gave notice of a similar Resolution. Sir, my Honourable friend, Sir Muhammad Yakub, was telling us only the other day that when he found that the great merchants and the European Group had combined, he was suspicious that it might not be to the best interests of the poor. I do not of course go quite so far, but I think when we find gentlemen of the European Group taking so much interest in a legislation like this, their very enthusiasm makes me suspicious; let us beware if, in the wording of this Bill, there is anything by which the principle of Imperial Preference or some such thing may not have been introduced; because I am very much afraid that the Japanese menace may dwindle down some day, but once the British trade gets better of any Indian industry, it will be impossible for us to shake ourselves off from that shackle. We found only the other day while criticising and discussing the White Paper as to what measures were in store for us in the future Constitution in the matter of the safeguarding of British interests. As to Japan, I know that

any day, by simply giving notice for six months against this most-favoured-nation clause, India will be able to safeguard her own industries, but not only the political thralldom and servitude of Indians, but their economic servility will be perpetually on us once the British domination, not only in the political field, but in the economic sphere as well gets a strangling hold in this country. My friend, Mr. Das, was unfortunately speaking vehemently against Japan. I for one do not find anything wrong with great Japanese nation. They as a patriotic nation must try to produce manufactured goods as efficiently and as cheaply as they can. If we fail to compete with them, is it anything disparaging to them, or is it our own folly and incompetence? Sir, it is the vice of all weak people to find fault with, and become jealous of, other nations that are strong, virile, progressive, and competent. Sir, I think there is nothing wrong in the Japanese nation trying to capture the markets throughout the world. Not only have they beaten us, but they have beaten our overlords, the British manufacturers as well. (Hear, hear.)

**Mr. B. Das:** But through depreciated currencies and State subsidies.

**Mr. S. O. Mitra:** I think, Mr. Das knows very well that that cannot be so; surely, he ought to know that it is not merely the depreciated currencies that have put Japan in a far better position than other countries. I know depreciated currencies are one of the many elements which operate, but let Mr. Das not be under the delusion that it is only depreciated currencies which have enabled Japan to score. Sir, they have higher efficiency, newer machines, a better organization, a greater degree of co-operation and a thousand and one other things which help them to produce articles much more cheap than in India, nay, even cheaper than Britain. Rather than abuse these great nations, I think we will do well to imitate their example and see how we can also be efficient. I know that so far as our textile industry is concerned, it stands on a very sound ground and we do hope that the time is not far off when India will produce all her necessities so far as textile is concerned, and internal competition will keep down the level of price. I think this House will agree to put not only a discriminating protection, but even high protection to bar out goods from any other country, not excluding Great Britain. We should be patriotic, and when India attains Swaraj, we will see that we always confine ourselves to our own industries and become self-sufficient. Sir, this measure is particularly necessary for small industries. Big industries like textile or steel can look after themselves and I know there is sufficient power in the Government to protect them. But the difficulty has arisen of late about small manufacturing industries which are growing in number throughout the country. We have received several representations of late. As Mr. Das said, the Bengal hosiery industry and the lantern industry, about which Mr. Jadhav was speaking, and many other industries are growing now. And that is the only way in which we can remove unemployment from India. So, we cannot have the least objection so far as this measure goes. Rather it is late. Steps ought to have been taken to protect our small industries long ago. But the only point on which I would like to have some more explanation is this. Before Government decide about the customs duty, why should they not consult some Committee. If the consultation of the Tariff Board becomes either clumsy or dilatory, they can appoint some *ad hoc* committee which can go summarily into the claims of these industries. And after that consultation,

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Government can legislate. Sir, it has been provided that when any duty is put, it will be placed before this House for its approval. But this House sometimes does not sit for months together. There will be no meeting of this House from now for about five months. What I want is that if there is a small committee, then it will be possible for the smaller industries to place their case before it. It will be a good thing for this House also, when these matters will come up for consideration, to know the facts and the grounds on which special protection will be given to these industries. With that object I have given notice of an amendment, but if the Honourable the Commerce Member can convince us that it will frustrate the purpose of this Bill, I, for one, will not press my amendment. I would like to know one thing that in the guise of any such legislation there should not be any chance for Imperial Preference coming in a backdoor fashion. The enthusiasm of the European Group in giving notice of this Resolution has made me more suspicious and I hope the Honourable the Commerce Member will explain that it will not be possible under this Bill to make any provision for any special preference for British goods. With these words, Sir, I support the consideration of this motion.

**Dr. Ziauddin Ahmad** (United Provinces Southern Divisions: Muhammadan Rural): Sir, I frankly admit that I do not like the customs policy of the Government of India and I do not like the customs policy of any country in the world and our wisdom lies in following the mad policy of other countries of this world. Sir, the true policy which other countries of the world ought to follow and which we alone could not possibly follow is that we should select one or two inelastic articles on which we may charge the customs or excise duties and collect as much revenue as we require and leave the other articles alone and have almost the free trade. We may also have the protection policy, but protection should be given very definitely for a limited number of years, and we should only protect those particular industries which have got potentialities. But to go on protecting our industries for an indefinite period and taxing the poor consumers is really a wrong policy. Sir, this is a correct policy, which unfortunately we alone cannot adopt unless all the countries of the world or at least the countries in the British Empire may co-operate with us. But so long as the world is mad, our wisdom lies in being mad as well.

Sir, I tabled an amendment and I discussed it on the occasion of the third reading of the Finance Bill. It was to the effect that we should have some automatic formula to meet the depreciated currency of other countries, but the Honourable the Commerce Member pointed out clearly that that formula was not sufficient to protect the industries. It really dealt with one particular aspect, but there are a variety of other causes which really demand consideration in the protection of a particular industry and they can only be met by considering the matter from a broader outlook and not merely from the point of view of depreciated currency. I was really convinced after discussing it on the floor of the House and I thought that the present Bill is really an improvement to the one which I suggested. My Honourable friend, Mr. Mitra, used a very important phrase. Once a man was asked to give the definition of the "best headmaster". He replied: "The best headmaster is one who is a benevolent despot". And my friend, Mr. Mitra, has extended the definition of an efficient headmaster to an efficient Commerce Member. So,

the success of this Bill will depend upon the benevolence of the Commerce Member. If he uses these powers to the best interests of the industries, then no legislation can be more beneficial than the one which is now before the House. But if it is misused, then I am afraid that it might do harm to our industries.

**An Honourable Member:** What is your opinion?

**Dr. Ziauddin Ahmad:** I am coming to it. My friend, Mr. B. Das, asked me to give an example of one particular industry and take him step by step. I want to give on the floor of the House the example of the sugarcandy industry. The time does not permit me to take him step by step and repeat all the arguments which I repeated on the occasion of the third reading of the Finance Bill. I will, therefore, simply tell him that he will do well if he opens the particular volume of our debate and go through it step by step. My friend, here, asks me whether I could show him specimen of sugarcandy and give him some special sweatmeats made of sugarcandy. Unfortunately I have myself never tested anything of that luxury. Now, Sir, I would rather like him to read the debate and go step by step and then he will see that there is one particular industry which really needs protection, and in this particular case the depreciated currency of Japan is not the only cause. There are other causes as well and one is that, at the time we passed our Finance Bill of 1931, we did not differentiate between sugar and sugarcandy. Therefore, these are just the things on which the Honourable the Commerce Member in consultation with the Tariff Board or in consultation with his experts can come to a satisfactory conclusion. Sir, time does not permit me to mention other industries . . . . .

**Sir Muhammad Yakub:** We have ample time.

**Dr. Ziauddin Ahmad:** He may have, the House has not, Sir, time does not permit me to give examples of other industries, but I should like to emphasise one particular point, that there are certain industries which are well organised and which are very vocal, which have got access to the Assembly and access to the Commerce Member. But there are other industries which are not sufficiently vocal and which have not got direct access to the Commerce Member by means of deputations and they are not represented by such powerful men as the Honourable gentlemen sitting on my left. I hope the case of those industries will not be neglected. One example was quoted by my friend, Mr. Mitra, and that is the hosiery industry of Bengal. I know something about it and I have been in communication with some people and I know that this is an industry which requires protection, and I hope their case will be looked into in the same generous spirit as the case of the textile magnates of Bombay, and also of sugarcandy of the whole of India. The other industry to which my attention has just been drawn by one of my colleagues is the lantern industry of Bombay Province. This is also an industry which has just been started and this is just the time when it requires a little protection. It has been hit very hard and if a slight assistance be given for a certain number of years I am certain that it can stand on its own legs, because it really uses materials which are produced in this country, and the labour is all Indian labour, and there is no reason why we may not be able to

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compete in this lantern industry with the other countries of the world. Sir, I very much appreciate this Bill and I give my wholehearted support to it and I hope that the Commerce Member will prove, as my friend, Mr. Mitra, said, a benevolent despot and will look after the interests, not only of the bigger industries of Bombay and Calcutta, but also smaller industries which are not very vocal and not represented by influential Members of the Assembly.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 12th April, 1938.



# LEGISLATIVE ASSEMBLY.

Wednesday, 12th April, 1933.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) in the Chair.

## QUESTIONS AND ANSWERS.

### IMPORT DUTY ON COTTON HANDKERCHIEFS.

1212. \*Mr. K. C. Neogy: (a) Is it a fact that before the year 1930 the import duty on cotton handkerchiefs was more than the import duty on cotton piecegoods?

(b) Is it a fact that according to the present rate of import duty on non-British goods, the import duty on handkerchiefs is 20 per cent below the import duty on piece goods? If so, is it the policy of Government in the present instance that the import duty on finished goods should be less than that on the raw material?

(c) Are Government aware of the fact that due to the lower rate of import duty on non-British handkerchiefs, an extra advantage has been gained by the Japanese handkerchief manufacturers over the Indian manufacturers, and that the handkerchief making industry in India is being threatened with extinction?

The Honourable Sir Joseph Bhoré: (a) Prior to 1st April, 1930, the import duties were:

Cotton piecegoods including cotton handkerchiefs (in woven pieces).	11 per cent <i>Ad Valorem</i> .
Other cotton handkerchiefs (assessed as Haberdashery)	15 per cent. <i>Ad Valorem</i> .

(b) The present rates of duty are:

Cotton piecegoods including cotton handkerchiefs (in woven pieces) not of British manufacture	50 per cent. <i>Ad Valorem</i> .
Other cotton handkerchiefs, not of British manufacture (assessed as Haberdashery)	30 per cent. <i>Ad Valorem</i> .

The existing duty on cotton piecegoods is protective and handkerchiefs imported in woven pieces, which are classed as piecegoods, are assessed at protective rates. Made up handkerchiefs have always been admitted on payment of the revenue duty as Haberdashery. The difference in the rates of duty is not inconsistent with Government's policy.

(c) It is not understood what is meant by extra advantage. Government, however, are aware of the facts stated in the answer to part (b) of the question. Government are not aware that the handkerchief making industry in India is being threatened with extinction.



**Mr. K. O. Neogy:** Has the Honourable Member not received any representation from this industry?

**The Honourable Sir Joseph Bhoré:** I have, Sir.

**Mr. K. O. Neogy:** Is the matter under consideration in connection with the Anti-Dumping Bill?

**The Honourable Sir Joseph Bhoré:** Any industry that desires its position to be protected under the Anti-Dumping legislation, if it is passed, will no doubt place its case fully before the Government.

**APPOINTMENT OF MUSLIMS AS SUPERINTENDENTS AND ASSISTANTS IN THE OFFICE OF THE DIRECTOR OF CIVIL AVIATION.**

**1213 \*Maulvi Muhammad Shafee Daoodi:** (a) Is it a fact that there is no Muslim superintendent in the office of the Director of Civil Aviation?

(b) Is it a fact that there is also no Muslim assistant in that office?

(c) Is it also a fact that the posts of a Superintendent and of an assistant have recently been created temporarily in that office?

(d) If the reply to the above three parts be in the affirmative, are Government prepared to consider the desirability of appointing Muslims to these posts? If not, why not?

**The Honourable Sir Frank Noyce:** (a) and (c). Yes.

(b) No.

(d) The orders of Government regarding representation of minority communities are observed in the office of the Director of Civil Aviation in India.

**MUSLIM SUPERINTENDENTS IN THE GOVERNMENT OF INDIA SECRETARIAT AND ATTACHED OFFICES.**

**1214. \*Maulvi Muhammad Shafee Daoodi:** Will Government kindly lay on the table a statement showing the total number of posts of Superintendents in the Government of India Secretariat and Attached Offices, separately, and the number of such posts held by Muslims?

**The Honourable Sir Harry Haig:** The information is being collected in respect of the Secretariat and attached offices at headquarters and will be laid on the table in due course.

**APPOINTMENT OF AN INDIAN AS DIRECTOR GENERAL, INDIAN MEDICAL SERVICE.**

**1215 \*Mr. K. P. Thampan** (on behalf of Mr. Jagan Nath Aggarwal): (a) Will Government be pleased to state if it is a fact that nearly fifteen years ago it was ruled by the Government of India that one of the two appointments of Director-General and Deputy Director-General, Indian Medical Service, should in future go to an Indian?

(b) Is it a fact that the present Director-General, Indian Medical Service, is retiring from the service during this year?

(a) Is it also a fact that the Public Health Commissioner, India, completes his term of office this year?

(d) If the answers to parts (a) and (b) are in the affirmative, do Government propose to appoint an Indian officer of the Indian Medical Service to the post of Director-General, Indian Medical Service?

**Mr. G. S. Bajpai:** The attention of the Honourable Member is drawn to the reply given to starred question No. 1173 of Mr. Gaya Prasad Singh on the 10th April, 1933.

**RESERVATION OF A COMPARTMENT IN EVERY RAILWAY TRAIN FOR AN ICE VENDOR.**

1216 **\*Mr. B. N. Misra:** Is it a fact that a compartment is reserved in every train for an ice vendor? If so, is it meant for the exclusive use of the ice vendor or for the use of persons connected with Government Railway Police travelling with or without permits?

**Mr. P. R. Rau:** Government have no information, but it is believed that a compartment is reserved during the summer months for the ice vendor on all trains. Whether any other passengers are allowed to travel in that compartment is for the local authorities to determine.

**TRAVELLING OF A POLICE CONSTABLE IN THE COMPARTMENT RESERVED FOR THE ICE VENDOR BETWEEN MORADABAD AND DELHI ON THE EAST INDIAN RAILWAY.**

1217. **\*Mr. B. N. Misra:** Is it a fact that on the 30th March, 1933, a constable in uniform with two persons in plain clothes travelled by the 5 Moradabad-Delhi train between Moradabad and Delhi on the East Indian Railway in a compartment reserved for the ice vendor? If so, why and under what circumstances are persons holding tickets and who have paid the fare not permitted to travel in order to avoid congestion and overcrowding?

**Mr. P. R. Rau:** Government have no information, but a copy of this question is being sent to the Agent, East Indian Railway, for disposal.

**RE-ORGANISATION OF THE RAILWAY SCHOOL AT CHANDAUSI, EAST INDIAN RAILWAY.**

1218. **\*Mr. B. N. Misra:** (a) Is it a fact that the Railway administration are contemplating a re-organization of the railway school at Chandausi, East Indian Railway? If so, (i) will there be any reduction of staff, (ii) do Government, as per the recommendation of the court of inquiry, propose to consult the recognized unions in respect of retrenchment, and (iii) what provision of leave and service will be made in respect of the staff contemplated to be reduced?

(b) Is it a fact that at the railway school, Chandausi, East Indian Railway, there are four office clerks? If so, will Government please state whether they intend to revert the clerks who belong to other administrations than the East Indian Railway to their parent railways?

(c) Is it a fact that the present Superintendent of the railway school, Chandausi, never had experience of the management of a school? If it is not so, where and in what capacity did he have such experience?

**Mr. P. B. Rau:** (a) and (c). I am making inquiries and will lay a reply on the table in due course.

(b) This is a matter within the competence of the Agent, East Indian Railway, to whom a copy of this question has been sent.

#### DISCUSSION OF INDIVIDUAL CASES WITH THE REPRESENTATIVES OF RECOGNISED UNIONS ON THE EAST INDIAN RAILWAY.

1219. **\*Mr. B. N. Misra:** (a) Is it a fact that Divisional Superintendents on the East Indian Railway do, according to their discretion, refuse to receive representations from recognized trade unions on behalf of individual members in respect of individual grievances, etc.? If so, why and what are the rules and orders in respect of the individual's case represented by his union? Are unions debarred from representing individual cases?

(b) Do the Railway Board desire to issue instructions in accordance with the recommendations of the Royal Commission on Labour that heads of departments and divisions should receive and discuss individual cases with the representatives of recognized unions so as to avoid unnecessary delay and labour?

(c) Will the Railway Board please lay on the table a list of unions recognized by railway administrations?

**Mr. P. R. Rau:** (a) Government are not aware what the exact practice followed by Divisional Superintendents on the East Indian Railway is. The attitude of the Railway Board was expressed in the memorandum furnished by them to the Royal Commission on Labour, viz., that the representation of individual grievances by Unions is not encouraged since it is considered that adequate machinery for dealing with these exists, individuals having the recognised official channels through which they can seek redress.

(b) I have not been able to trace a recommendation in the report of the Royal Commission on Labour that Heads of Departments and Divisions should receive and discuss individual cases with the representatives of recognised unions. The Royal Commission on Labour have recommended that a recognised union should have the right to negotiate with the employer in respect of matters affecting the individual interests of members. This is still under consideration by the Railway Board and the Government of India.

(c) I am calling for up-to-date information and will lay a reply on the table in due course.

#### BRITISH TROOPS IN THE ALWAR STATE,

1220. **\*Bhai Parma Nand:** Will Government be pleased to state for how long the British troops have been in the disturbed area of Alwar State? For how long more is it proposed to keep them there?

**Mr. H. A. F. Metcalfe:** Three months and three days. No decision has been taken as to how long troops will be kept there.

**Mr. Gaya Prasad Singh:** Since the troops have been sent to Alwar not at the request of the Alwar State, may I know who is going to foot the bill?

**Mr. H. A. F. Metcalfe:** Any extra cost which is entailed by the presence of troops in Alwar will be paid by the Durbar.

**Bhai Parma Nand:** May I know, whether the Honourable Member has received any representation from the Hindus of the disturbed area that the very presence of these troops is a sort of encouragement to the rebels?

**Mr. H. A. F. Metcalfe:** No such representation has been received as far as I know, but I will make enquiries on the subject, if the Honourable Member wishes.

**TRANSFER OF MR. SARAT CHANDRA BOSE, A STATE PRISONER IN THE JUBBULPORE JAIL, TO A HILL STATION.**

1221. **\*Mr. S. C. Mitra:** (a) Will Government please state whether they intend to transfer Mr. Sarat Chandra Bose, State Prisoner at Jubbulpore, to any hill station?

(b) What arrangements have been made to give him association if he is still in jail at Jubbulpore?

(c) In view of the fact that Mr. Sarat Chandra Bose is suffering from diabetes and on account of the hot weather at Jubbulpore, are Government prepared to consider urgently the question of removing him at once to a cooler climate?

**The Honourable Sir Harry Haig:** The question of Mr. Bose's transfer from Jubbulpore is under consideration and I trust the matter will shortly be decided.

**Mr. S. C. Mitra:** Are not the Government aware that he is now housed in a room in "a low Raniganj tiled roof barrack without a ceiling which was used for a workshop, but was converted into cells for prisoners during the civil disobedience movement—open all round with iron bars on all sides—no walls" and do not the Government feel that in this hot season it is very much detrimental to his health to stay in such a room?

**The Honourable Sir Harry Haig:** I am afraid, Sir, I cannot at once give an accurate description of precise accommodation which is at the disposal of Mr. Sarat Chandra Bose, but, as I have said, the question of his transfer is under consideration, and it is hoped that the matter will be decided shortly.

**Mr. S. C. Mitra:** Is it not a fact that the matter has been under consideration for the last three months and that I myself put two previous starred questions to the Honourable Member to know whether Mr. Bose will be provided with any association or whether there is any chance of his being transferred to a cooler climate?

**The Honourable Sir Harry Haig:** That is perfectly true, but the matter has considerably advanced since the Honourable Member asked those questions.

**PERMISSION TO MR. HEM CHANDRA GHOSH, A STATE PRISONER IN THE DEOLI DETENTION CAMP, TO PERFORM THE SRADH CEREMONY OF HIS FATHER.**

1222. \***Mr. S. C. Mitra:** (a) Have the Government of India received a petition from Mr. Hem Chandra Ghosh, a State Prisoner, now detained in the Deoli Detention Camp, for permission to perform the *Sradh* ceremony of his father on the 24th April, 1933?

(b) If so, do Government propose to allow him leave to go home to perform the *Sradh* ceremony of his father?

**The Honourable Sir Harry Haig:** (a) No.

(b) Does not arise.

**SHORT NOTICE QUESTIONS AND ANSWERS.**

**RESTRICTION OF EXPORTS OF TEA.**

**Mr. F. E. James:** (a) Will Government be pleased to state whether they have been requested to co-operate with the Governments of Ceylon and of the Netherlands East Indies in rendering effective the scheme for the restriction of exports of tea which has been agreed upon by the tea producing interests of India, Ceylon and the Netherlands East Indies?

(b) If the answer to part (a) be in the affirmative, will Government be pleased to state what steps they propose to take in the matter?

**The Honourable Sir Joseph Bhore:** The reply to the first part of the question is in the affirmative.

As the matter is one of considerable importance and interests, I place on the table a statement giving as complete information as I can at this stage.

When in October last representatives of the Indian Tea industry approached the Government of India with a view to securing their support to an international scheme for the restriction of exports of tea, they were informed that Government would be prepared to consider on its merits any practical scheme that might be put forward. In coming to this decision Government were influenced by the fact that the condition of the industry was precarious and that the collapse of many concerns was imminent. The first sufferers were likely to be Indian-owned and managed concerns which have started fairly recently and have little or no reserves. The Indian Tea Association, acting for the industry, in due course, produced a scheme which has had the careful consideration of Government. The scheme is in two parts. The first defines the degree and nature of the restriction for each contracting country as a whole and is in accordance with the agreement reached by negotiation amongst the national interests concerned. It is common to all contracting countries. The second part refers only to the method of enforcing restriction in India.

2. The substance of the international agreement is as follows. Exports of tea will be restricted to a percentage of the maximum exports from each producing country in any one of the three years, 1929, 1930 and 1931. The percentage will be fixed for each year by an international Committee and for the year commencing 1st April 1933 is 85 per cent. The restriction scheme will remain in force for five years and during that period existing areas are not to be extended beyond  $\frac{1}{4}$  per cent. of the present planted area and the export of tea seed is also to be prohibited. These heads of agreement are to be enforced in each of the contracting countries by the Government concerned.

3. In order to control exports from India itself it was proposed that exports should be restricted by notification under Section 19 of the Sea Customs Act to consignments covered by license issued by a prescribed authority, and the Indian Tea Association further

proposed that the industry itself should undertake on behalf of Government the allocation of export quotas to individual estates and the issue from time to time of licenses to the extent of the export quota. Export quotas are to be based on the maximum production of each estate in any one of the four years, 1929, 1930, 1931, 1932, with certain allowances for young tea, and will bear the same proportion to that maximum as the total Indian overseas export quota fixed by the international Committee bears to the combined maximum productions of all Indian estates. Export quotas would be transferable. The intervention of Government agencies would be confined to verifying the existence of valid licenses covering consignments at the time of export and the maintenance of records to ensure that the agreed exportable quota was not exceeded.

4. In considering whether it was desirable to afford official recognition to the scheme, Government were first concerned to see the extent to which the scheme commanded the support of the tea producers themselves. The results of a referendum issued to all known estates have been examined and it appears that over 92 per cent. of the industry, reckoned in terms of production, have expressed themselves in favour of the scheme, while active dissent amounted to only 2½ per cent. Indian associations have expressed themselves as strongly in favour of the scheme as British interests. Government are, therefore, of opinion that the majority in favour of the restriction scheme is sufficiently overwhelming to justify official recognition, provided the scheme is otherwise acceptable.

5. As regards that part of the scheme which is common to all participating countries, the conclusions of Government are as follows. They will be prepared to restrict exports of tea by sea to consignments covered by license issued by the prescribed authority and they will prohibit exports in excess of that proportion of the total export quota which the standard export by sea bears to the total standard export from India (the standard exports is the maximum export in any one of the years 1929, 1930, 1931, on which the total export quota is based). Government are of opinion that exports across India's land frontiers are entirely for the domestic supply of adjoining territories and do not represent potential competitive supplies for world markets. Should there appear in future any abnormal growth of exports over the land frontiers, the question of control on the frontiers will be further considered. Government consider that the question of restricting areas under cultivation is primarily one for the consideration of the local Governments concerned. They understand that the Governments of Madras, Assam and Bengal are prepared to restrict the issue of fresh leases for tea cultivation for the period of the agreement. Local Governments have been addressed in order to ascertain their views on the question of restriction of planting of areas already leased. Government are informed that the quantity of tea seed exported from India is at present insignificant. The necessity for prohibiting its export is still under consideration.

6. Government have examined the proposals of the Indian Tea Association in respect of the issue of licenses. In view of the fact that the issue of licenses to tea producers and exporters will be automatic, provided there exists an unexhausted export quota in the name of the producing estate, Government are prepared to leave to the industry itself, subject to the orders of Government, the actual machinery for the issue of licenses. The prescribed licensing authority will be a committee representative of the tea growing industry and containing representatives of both British and Indian interests. The Committee will operate from two centres, one in Calcutta, for the northern gardens, and one in a suitable centre, such as Coimbatore, for the South Indian estates. The licensing Committee will keep account of all quotas allotted and will record all licenses granted thereagainst. In the case of gardens or estates in respect of which no quotas have been fixed by reason of non-return of production statistics, quotas will be allotted by the licensing Committee on production of authenticated evidence of the maximum production in any one of the basic years.

7. In order to give effect to the restriction of exports Government have considered whether it would be possible to introduce legislation in the present Session. The legislative programme, however, has been very heavy, and it has been decided that, for the time being at least, restriction should be enforced by the alternative method of the issue of a notification under Section 19 of the Sea Customs Act, and such a notification will shortly issue. It is the opinion of Government that the tea restriction scheme should have the approval of the Indian Legislature, but it has not been possible to obtain that approval in the present Session. Not only has the pressure of business been great, but the final details of the scheme were only very recently received. Government propose, however, whether by the introduction of *ad hoc* legislation or otherwise, to give to the Legislature in the next Session a full opportunity of expressing an opinion on the scheme.

8. The support and recognition which Government are prepared to give and which has been described heretofore is conditional (a) on the co-operation of the other Governments concerned, (b) on the approval of the scheme by the Legislature, and (c) on the approval by Government of the total export quota fixed from time to time by the international Committee.

## DACOITIES IN SIND.

**Mr. S. C. Mitra** (on behalf of Mr. Lalchand Navalrai): (a) Will Government be pleased to state if they have taken any steps to deter the recurring dacoities committed in Sind? If so, what?

(b) Have Government been able to arrest the ringleader of the dacoities in Sind who is supposed to be eluding pursuit and has crossed the borders to the Kalat territory? If not, what steps have Government taken in that direction?

(c) What permanent arrangements do Government propose to make for protection against inroads of dacoits from the borders of the Kalat territory?

(d) Has any action been taken against the local people who are stated to have taken away by force the remainder of the booty left by the dacoits during the recent dacoities in Sind?

(e) What steps have Government taken to restore confidence of safety and security in the victims of those dacoities belonging to the minority community of Sind?

**The Honourable Sir Harry Haig:** (a) Yes. The Police force in Sukkur, Larkana and Upper Sind Frontier Districts has been reorganised and its strength considerably increased since 1931-32. Lest the Honourable Member's reference to recurring dacoities in Sind might create misapprehension, I would add that there has been only one serious dacoity recently, *viz.*, by a gang from Kalat Territory on the night of the 11th March, 1933, in Buthi village in the Larkana District. I understand that the situation is not as serious as reported in the press, though apprehension exists in outlying villages as a result of the dacoity at Buthi.

(b) All possible steps are being taken to effect the arrest of the ringleader of the gang responsible for the dacoity at Buthi. A reward of Rs. 2,000 has been sanctioned by the Local Government for his arrest.

(c) The District Magistrate, Larkana, has addressed the Political Agent, Kalat, and the Commissioner in Sind has addressed the Agent to the Governor General, Quetta, asking for effective action against dacoits and that every possible step be taken to prevent such occurrences.

(d) No such incident as alleged has been reported to Government.

(e) It is hoped that the action taken to secure the apprehension of the dacoits will restore confidence. In addition, those concerned have been assured that all possible steps will be taken by Government to ensure the safety of their lives and property.

## UNSTARRED QUESTIONS AND ANSWERS.

## LOCATION OF THE EXISTING INFECTIOUS DISEASES ISOLATION HOSPITAL, DELHI.

199. **Lieutenant Nawab Muhammad Ibrahim Ali Khan:** (a) Will Government be pleased to state what is the idea of locating the existing Infectious Diseases Isolation Hospital between Old and New Delhi on the main road connecting the two Cities?

(b) Are Government aware that this hospital is in a highly insanitary condition?

(c) Is it a fact that the hospital is bounded on the north by a dirty tank called Talab Shahji, on the south by a filthy well, on the east by land used as public latrines and on the west by Nazul land used by Ghosis (Gowalas) for dumping cowdung and for drying cowdung cakes?

(d) Is it a fact that the hospital is ill-ventilated, has very little accommodation and its walls on the west side are only four or five feet above the ground?

(e) Is it a fact that there is no proper drainage in the hospital and that the water used in the hospital spreads and soaks into the ground on the east of the hospital?

(f) Is it a fact that the hospital is not properly lighted in the night and that there are only two or three dim hurricane lanterns in the rooms of the hospital? Why has it not been fitted with electric lights or fans although an electric line passes just outside the hospital?

(g) Are Government aware that owing to the badly neglected condition of the hospital, nobody except paupers and menials remain in the hospital for treatment?

(h) Is it a fact that Ram Lila celebrations are held for full ten days in front of the hospital and about a lakh of people throng there every day?

(i) Is it a fact that a police wrestling tournament took place last year adjoining the ground and was witnessed by most of the police force and thousands of members of the public?

(j) Is it a fact that a big industrial exhibition was held close to the hospital and that the exhibition was visited by thousands of men, women and children daily?

(k) What action do Government propose to take to safeguard the public from the infectious diseases such as small-pox and measles which the hospital is believed to spread in Delhi and New Delhi and to protect the King's police from falling a prey to such diseases by holding the said tournament in such a dangerous area?

(l) Has it ever struck the authorities of the Delhi and New Delhi Municipalities and the Local Government during the building of New Delhi for the last 20 years to improve this hospital and to shift it to a more isolated place? If not, why not? Is it also a fact that the Local Government have taken little interest in the matter and that there has been no co-ordination between the Assistant Director of Public Health and the Health Officers of the Delhi and New Delhi Municipalities to improve the sanitation of this hospital and the surrounding locality all these years?

(m) When do Government propose to take up this matter to end the present state of affairs?

**Mr. G. S. Bajpai:** Enquiries have been made and the result will be communicated to the House in due course.

#### ABOLITION OF THE LOWEST SELECTION GRADE EXAMINATION IN THE POST OFFICES.

**200, Maulvi Sayyid Murtuza Saheb Bahadur:** (a) Will Government be pleased to state whether it is a fact that the system of examinations for



promotions to the lowest selection grade in the Indian Posts and Telegraphs Department was abolished with effect from the 15th March, 1932, with supplementary rules or orders to the effect that all the officiating arrangements which had commenced in the lowest selection grade prior to the 15th March, 1932, should be allowed to continue undisturbed?

(b) Is it a fact that the abolition of the system mentioned in part (a) above was notified in a general circular of the Director-General in March, 1932, while the supplementary rules or orders were not so notified and were not brought to the knowledge of the entire staff of the department as in the case of the general circular?

(c) Is it a fact that in some Circles the supplementary rules mentioned in part (a) above were not applied to the case of some officials concerned with the result that their officiating appointments which actually commenced before 15th March, 1932, were discontinued contrary to the said supplementary rules, and are Government aware that the officials could not represent their cases as the supplementary rules which safeguarded their interests had not been communicated to them and were not known to them?

(d) Is it a fact that the case of all officials whose officiating appointments in the lowest selection grade had already commenced before 15th March, 1932, under the system then in force, were not intended to be affected by the new procedure and that the disturbing of their officiating arrangements due to the introduction of the new system from 15th March, 1932, was contrary to the supplementary orders mentioned in part (a) above?

(e) Do Government propose to issue clear orders to the entire staff in a general circular of the Director-General restoring the officials mentioned in part (d) above to officiating appointments in the lowest selection grade provided (i) that the officiating arrangements which they held under the previous procedure had actually commenced before 15th March, 1932, and (ii) that the officiating arrangements to which they were entitled under the rules in vogue prior to 15th March, 1932, have not yet come to an end in the ordinary course and are still being held by other officials who were not entitled to them under the rules in force prior to 15th March, 1932?

**Sir Thomas Ryan:** (a) and (b). Yes.

(c) Government have no information.

(d) The reply to the first part of the question is in the affirmative; as regards the second part, Government are not prepared to express an opinion without being informed of the full facts of the cases which the Honourable Member apparently has in mind.

(e) Government do not propose to issue any such general orders. The cases of individuals who consider that they have any grievances will be considered if submitted through the proper official channel.

## THE SAFEGUARDING OF INDUSTRIES BILL—*contd.*

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The House will now resume consideration of the Safeguarding of Industries Bill.

**Mr. C. C. Biswas** (Calcutta: Non-Muhammadan Urban): Sir, it is very gratifying to find that this measure has received support from all sections of the House. I venture to think that such support should be wholehearted and ungrudging. If there has ever been a measure in regard to which my friends on the Benches opposite might claim that it has been put forward in response to public demand, it is this: the action taken is entirely worthy of my Honourable friend, Sir Joseph Bhore. For the moment we are willing to forget that he belongs to the steel-frame class. Even if we must remember that, we remember only that it is Tata steel—Indian steel. I say, a measure of this kind is worthy of a popular Minister. The situation which has arisen in the country is one that calls for resolute action, and in fact we were hoping for the last few weeks for some such steps as Government have now brought before the House. The powers which they are taking under this Bill are no doubt somewhat drastic in their character, but there is no help for it. As a matter of fact, drastic as they are, I venture to think that adequate safeguards have been provided. After all, the responsibility for initiating action must rest on Government, but then they will have to justify their action before the Legislature. It is provided that if, after the matter is placed before us, either House rejects the proposal, the notification that might have been issued will automatically lapse. I believe I voice the sentiments of all my friends here when I say that we can safely depend on the Honourable Sir Joseph Bhore to do all that may be necessary in furtherance of the object with which this measure has been framed. There are no doubt various interests concerned—the interest of the manufacturers, the interest of the consumers, the interest of the merchants; but I am quite sure that the Commerce Member may be trusted to see to it that no action is taken which will not subserve the paramount interest, the interest of the nation, and that action will be taken only in so far as the various interests which are concerned can be reconciled to the national interest.

My friend, Mr. Mitra, I find, has suggested that there should be an Advisory Committee of this House and that the Government should be required to take such Committee into confidence before taking any action. I quite appreciate the idea which lies behind this proposal, but it seems to me that the Committee would be somewhat impracticable. After all, the action to be taken will be emergency action. Government must no doubt take all the facts into consideration: they must examine the case of each industry very carefully; but it may not be always practicable to place these facts and materials before a Committee before action is taken. In ordinary circumstances, when, for instance, Government take action on the reports of the Tariff Board or otherwise by way of imposing new duties, they bring forward a Bill in the House and, by virtue of the Provisional Collection of Taxes Act, the Bill comes into operation on the very day it is introduced. I do not think that if you have a Committee like the one which my friend, Mr. Mitra, has suggested, it will be possible wholly to

[Mr. C. C. Biswas.]

avoid premature disclosures of Government's plans, without there being any corresponding safeguard such as is provided by that Act in regard to ordinary fiscal measures. There are these difficulties, but I do not think that there is really any necessity for insisting on any such safeguards, because, as I have said already, it is already provided in the Bill that the matter must come before either House of the Legislature, and Government must be fully aware whenever they take action on the lines of this Bill that they will have to justify that action before the Legislature. That ought to provide ample safeguard. As a matter of fact, we know that in the Indian Tariff Act they have the power to take action on some such lines in regard to certain industries; and they can take such action under the Tariff Act without the necessity of bringing that action for confirmation before the House in the way now proposed. On these grounds, I venture to submit that the House will be fully justified in according its whole-hearted support to the present Bill.

**Mr. O. S. Ranga Iyer** (Rohilkund and Kumaon Divisions: Non-Muhammadian Rural): Sir, as my friend, Mr. Biswas, has truly said, if this House were a responsible House, it could not have had a better measure brought before it under the circumstances in which the country and its industries live today: it could not have a more useful piece of legislation than the one that the Honourable the Commerce Member has brought before us, and, I believe, I am speaking not only for myself, but for the entire non-official opposition when I say that this Bill will be passed unanimously (Hear, hear), for there is no one in this House who wants to encourage the coming into existence of what may be considered as derelict industries which are sure to perish if the present kind of warlike competition is permitted. Not very long ago, before this warlike competition was started by a friendly country exploiting a convention which gave it most favoured nation treatment, industries which are almost collapsing were the hives of a prosperous population.

Sir, the one question that faces India today is the question of growing unemployment and growing inefficiency of the Indian industries. There may be various causes for this inefficiency, but the most vital cause, Sir, is the decrease of profit and the inability to find a market for our own goods. When our manufacturers are not able to sell their goods at a profit, when they are not able to sell them without undergoing a loss, it is natural that the efficiency of our industries should be impaired, and the purpose of this legislation will be to discourage cheap labour and the dumping of showy articles on our markets and also the wasting of our capacity to buy abroad. If this dumping is permitted, the result will be that India's capacity to buy abroad will be reduced to such an extent that I do not know what will happen to our industries in future. Therefore, there cannot be any two opinions so far as the necessity of protecting the indigenous industries is concerned.

I believe, my friend, Mr. Das, did not mean it when he said that we must declare war on Japan. No, we are not declaring war on Japan. On the contrary, Japan has declared war on us; Japan had continuously exploited a convention which has got to be denounced. We are surely on the defensive . . . . .

**Mr. B. Das.** (Orissa Division: Non-Muhammadan): They declared war, and we have to declare war on them.

**Mr. C. S. Ranga Iyer:** We are purely on the defensive, and when the Commerce Member said that it would be necessary to denounce the convention, I am certain that he did not contemplate the declaration of a war. On the contrary, he might even contemplate the possibilities of exploring all avenues of coming to an understanding, if possible, with Japan and other competitors. (Hear, hear.) The greatest necessity today is to tell those who are adopting an unfriendly attitude, instead of a friendly attitude, who are adopting a policy the permitting of which would mean the destruction of our own industries, it is for us to show to them firmly and clearly that such a thing cannot be permitted, and then to open negotiations with them. This Bill will really be opening negotiations with an unfriendly competitor. I know, speaking from my own point of view, the point of view of my constituents, that they are very much affected by this dumping. I represent a large number of sugar districts in the United Provinces. Panic runs through these districts about the increasing reduction of the price of sugar candy coming from Japan. Again, in the district of Moradabad, in Bijnor, as my friend, Sir Muhammad Yakub, will be able to tell the House if he were to stand up and speak, there is great panic, because the window panes that come from Japan are being sold so low, almost it seems below the productive price, and unless and until this competition is put down, these industries will go out of existence.

Sir, there are various other aspects from which this question can be tackled. I have already mentioned the question of unemployment. There is then the instinct of self-defence. That instinct is paramount in every nation. In the dire and harrowing conditions which envelop our industries, it will not do to pose as a benevolent society for foreign ill-doers. Even if they were well-wishers, that policy will be little more than a tragic farce. The Government have been taking a fairly benevolent attitude in the past. Our rivals cannot be allowed to exploit that benevolence. Moreover, there can be no payment of wages and no employment for our people unless the product of the industry is marketable at a profit or, at any rate, as I stated, not at a loss. I suggest that the time has come when, if we leave the product of the industry any longer open to ruthless competition, we shall be forced to abandon the standard which we have built up.

Sir, I believe even the Congress opinion is in favour of this anti-dumping Bill. I have with me a quotation from a statement of Mr. C. Rajagopalachariar. Speaking of *Khaddar*, he said:

"The extra cost you are asked to pay is the unemployment dole that every nation must pay in one way or another. Japan taxes herself to dump cloth in India. The people of Japan prefer to tax themselves to permitting unemployment among their poor folk which they dread more than paying taxes. Japanese cloth does not drop from the heavens. They have no magic to produce cloth below cost price. The difference is paid for by taxes borne by the whole country. So also should we patriotically pay voluntary taxes to feed the poor village folk."

That is how he is arguing his case for protection against competitors of *Khadi*, both Indian and foreign, and when he was saying that, he was asking people to pay a large price for indigenous handloom products, if necessary.

[Mr. C. S. Ranga Iyer.]

I am anxious not to allow Japan to compete with the products of our cottage industries. Sir, India lives in cottages and in villages, and if this competition from outside is permitted, our cottage industries will go to the wall, for the cottage industrialist is incapable of competing with these cheap showy articles. The Congress people are familiar with what is known as peaceful picketing. During strikes we have peaceful pickets posted at the door of the factory to prevent black legs entering that factory, and I think the same process is being adopted under this Bill. We post, as it were, a peaceful picket in every port in this country so that cheaper labour than ours, longer hours of work and all these may not be encouraged and a false standard aided in any other country so that the true standard which we have set up may be lowered. It has been stated that this imposition of tariff which the Government will have the right to impose under this Bill will be a sort of sop to the industrialists. On the contrary, it is the only available method to bring more work to our own working people.

Much has been said, Sir, during the debate about a tariff war. Although we have been living in a State tariff war, as it were, for generations,—as Mr. Baldwin said: “we are shelled without being able to reply,”—we must have a right to retaliate, and that right is being taken under this Bill and will be used if necessary. On the contrary, if, after the passing of this Bill, Japan opens negotiations, it may not be necessary to retaliate provided Japan withdraws from the position that she has taken up at present. It has also been said that tariff can be used as a shelter for inefficiency. If the industrialists of India use this tariff as a shelter for inefficiency, they will be condemning the tariff itself, and as I have already said, we will be helping them on to inefficiency where efficiency ought to exist. Let not be said with the aid of tariff, it is being slowly sapped.

Sir, lastly, as I stated, we are not taking an offensive. Throughout the world today you have got high tariffs. Which is the country in the world which is free from high tariffs? I think India is only following the example of other nations in this particular matter. Speaking in the House of Commons, Mr. Walter Runciman, the President of the Board of Trade, pointed to a state of affairs in the world which has brought about the present condition which the Honourable the Commerce Member has finally decided to combat. My friend, Mr. S. C. Mitra, made an excellent suggestion that there should be an Advisory Import Duty Committee. The suggestion was a very excellent one, but it is extremely belated. Had the suggestion been made a year ago, we would have forced the hands of the Honourable the Commerce Member who would have come to us with this Bill six months earlier. As time is of the essence, I am afraid we cannot at present support that suggestion. Unfortunately, therefore, I hope even though he might have an academic discussion on this matter, he will not press his amendment to a division. I am confident he is not going to press it to a division. I said I would quote the passage from the statement of Mr. Runciman regarding this increase of tariffs which exist all over the world. He mentioned several countries—Austria, Egypt, Australia, Canada, the Union of South Africa, and so on. He did not mention at the time Japan, but Japan is one of those countries where

you have got the highest tariff wall and surely Japan cannot grudge if we also have a high tariff wall. He says:

"During the last few months of the year there has been an increase of customs duties in many countries and, what is worse, the establishment of import control in various forms. Importation into some of these countries is now subject to licence. In others it is limited by the quota system. I see no indication in any part of the world at the present moment of there being an automatic desire on the part of these foreign countries to lower their tariffs. But I do not despair,"

and so on.

Therefore, what we are doing is exactly what other countries have already done and the Honourable the Commerce Member has come to us not a day too early. Therefore, I hope we will support this Bill, that its passage will be easy and smooth through this House, so that we may proclaim to the world with that voice of unanimity, in voice of thunder, that the Opposition and the Government are united where the encouragement of indigenous industries are concerned and that no foreign competitor, who wants to exploit convenient trading arrangements, will be permitted to bring about the ruin of industrial India. (Applause.)

**U Kyaw Myint** (Burma: Non-European): After mature consideration and exhaustive analysis, I have decided, perhaps to my Honourable friend, Mr. Mody's surprise, to support the Bill. It was only the other day that, after a process of prolonged thought, I came to the very sad conclusion that we are ruled politically by White Hall, intellectually by Madras and economically by Bombay. But when I imparted the news of this great discovery to Mr. Mody, instead of giving me any sympathy, he called me a fool for not having found it out two years ago.

I support this Bill for what I regretfully call provincial reasons. I have received a long telegram from Burma—from the principal hosiery manufacturer in Rangoon. I would not have taken it at its face value, but I know the gentleman personally and I have also had an opportunity of inspecting his works. I propose to read it out, with your permission:

"Cotton textiles include both woven and knitted cotton fabrics and when excise duty was in force it was levied on both. Weaving consists of two major operations, weaving and finishing, while knitting consists of knitting, finishing, cutting and sewing. This last section employs about fifty per cent. more labour, which fact has been seen and reported to Government by the Tariff Board. We are already in considerable difficulties and have been obliged to close one section of our factory and must close other sections in the near future. We respectfully submit Japanese dumping will prove ruinous not only to Indian industries, but also to Indian workmen. Indians, instead of wearing Indian cloth and hosiery, will be compelled to use Japanese goods of a like nature. Japan will thus gain a very firm footing in India, as also a very useful advertisement from users of Japanese hosiery and cloth. We therefore respectfully submit that firm and immediate steps are necessary to put an effective stop to unjustifiable dumping, by imposing one hundred per cent. duty immediately, as prayed for by Hosiery Manufacturers' Deputation. This will be nett benefit to India, to the Indian Government and to Indian labour. The labourer will obtain money from better class Indians who by wearing cotton cloth and hosiery will indirectly help the Indian labourer without feeling the burden. The labourer and manufacturer will spend money in India and will be circulating it in India and thus the country will not be the poorer. Any amount of help granted after delay will be entirely useless because then the manufacturer will have been financially ruined and his capacity for increased production gone, while the labourer will be ruined by indebtedness resulting from unemployment. Therefore, to render effective help to manufacturers and labour, one hundred per cent. protective duty must immediately be levied. Since Hosiery Manufacturers' Association waited on the Honourable the Commerce Member on 26th February, prices in Japan have been reduced by ten per cent. with prospects of still further reduction."

[U. Kyaw Myint]

It is from the point of view of the labourer that I have analysed the Bill, and I support this Bill only because it is obviously an emergency measure. We can only hope that gentlemen like Mr. Mody will not take advantage of this emergency to dip their hands further into our pockets.

**Mr. N. M. Joshi** (Nominated Non-Official): As this subject was discussed recently in the Assembly, I do not wish to make a long speech and I shall content myself with a very brief statement of my views on this subject. There is no doubt at all that some kind of action and some measures are necessary to prevent the evil results of the dumping that has been going on in our country, but I feel that the method of preventing this dumping and the manner of doing so requires very careful consideration.

In the first place, the Bill, introduced by the Honourable the Commerce Member, very rightly proposes that before any action is taken, there should be an inquiry made by Government. In this connection, I would like to suggest that not only this inquiry should be a thorough one, but that the inquiry should not be confined to one country. I had made that suggestion in my speech when speaking on this subject on the previous occasion, that when we talk of dumping by Japan and her depreciated currency or the bad labour conditions in Japan and several other things, it is much better that we should get first-hand knowledge of those conditions. When I spoke last about this, my Honourable friend, Mr. James, said that there was the report published on the labour conditions in Japan by the International Labour Office. Surely, Sir, the report published by that office, which only deals with general conditions, cannot be sufficient in order to compare conditions in India and in Japan. It is much better, therefore, that an inquiry should be undertaken to find out what are the factors which enable Japan to dump her goods on India. Yesterday my Honourable friend, Mr. Das, and, I think, also Mr. Mitra said that Japan beats our goods not only on account of bad conditions of labour or on account of depreciated currency, but because Japan has got a better organization and a greater degree of efficiency. I have absolutely no doubt in my mind from what I have read about Japan and her industries that the Japanese industries are a hundred times better organized than our industries are, and it may be one of the factors which enable Japan to compete with us. I feel, therefore, that there should be an inquiry made not only into one country, but into all those countries at whose hands we suffer from dumping. We talk of labour conditions in Japan and my friend, Mr. Mody, recently said in a speech that on account of certain legislation brought forward by the Government of India, a burden has been thrown upon the industry in India. He wanted to hint that on account of the legislation which the Government brought forward, such a burden was thrown on the industry that they could not compete with Japan. Now, the only legislation which to my mind has been introduced by Government which throws any slight burden upon the industry is the workmen's compensation legislation. The Bill has not yet passed. Therefore, if our millowners find it difficult or if our other industries find it difficult to compete with Japan, it is certainly not due to the Bill, which is only in the form of a Bill today and which has not yet thrown any burden on the industry yet. Moreover, what will be the burden about which Mr. Mody was talking? The Workmen's Compensation Bill, introduced by Government, will not throw upon the textile industry in Bombay, say, more

than a burden of Rs. 10,000 to Rs. 15,000 a year—a burden which is certainly not greater than perhaps the bill which the mill-owners of Bombay may be paying for bridge stakes or for drinks. (Hear, hear.) Then, Mr. Mody referred to another Bill which Government propose to introduce and he wanted to create an impression in the minds of the Government and to frighten the Government by saying that the Bill which is to come will be such a dreadful Bill that the industry has already begun to suffer from now merely on account of hearing of the introduction of that Bill! Now, that Bill is the Factory Amendment Bill. In this connection, Mr. Mody has given a warning to the Government that he will not agree to the hours of labour being reduced. Now, I do not wish to go into this question of the hours of work, but I would point out to my Honourable friend, Mr. Mody, as I pointed out on the last occasion that in America—a very advanced country where industrial thought has advanced—the Government are now insisting upon a 30 hours week in all the industries of the country, and my friend, Mr. Mody, here insists that the hours should be longer; and when Government are thinking of reducing the hours, he says the hours should not be reduced.

**Mr. H. P. Mody** (Bombay Millowners' Association: Indian Commerce): Don't you think we might discuss that a little later?

**Mr. J. Ramsay Scott** (United Provinces: European): Do you want the cotton wages reduced too?

**Sir Muhammad Yakub** (Rohilkund and Kumaon Divisions: Muhammadan Rural): We have got to finish the work today!

**Mr. N. M. Joshi**: I am quite prepared to measure the length of my speeches with the length of the speeches of the Honourable Member from Moradabad.

**Sir Muhammad Yakub**: By all means do it.

**Mr. S. G. Jog** (Berar Representative): Measure the depth of your speeches, not the length.

**Mr. N. M. Joshi**: I would be quite ready to debate the subject on the basis suggested by my Honourable friend, Mr. Jog. Mr. President, my point is this, that the labour legislation, which the Government have so far brought forward, really throws very little burden upon the industry, and in some cases if the Government introduce legislation for the reduction of hours, it is a kind of legislation which several countries have now introduced as a measure against the present depression.

**Sir Leslie Hudson** (Bombay: European): Has Japan?

**Mr. N. M. Joshi**: As regards Japan, the Japanese hours of work are certainly not longer than our hours of work. When we talk of the welfare of labour in Japan, please remember, Sir, that in Japan the labour has got a health insurance law. Will you agree to have a health insurance law in your country? If not, what is the use of comparing Japanese labour conditions and ours? Japan has got a much better Workmen's Compensation law. I, therefore, suggest, Mr. President, that there



[Mr. N. M. Joshi.]

should be a thorough inquiry into these matters before we allow the impression to be created in the country that it is bad Japanese labour conditions that enable Japan to compete with us and beat us in competition.

**Mr. J. Ramsay Scott:** What about wages?

**Mr. N. M. Joshi:** If my Honourable friend wants to go into wages, I am quite prepared to go into the question of Japanese wages. I am quite sure that Japanese wages are not smaller than our wages.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions: Non-Muhammadan): They are.

**Mr. N. M. Joshi:** I am quite prepared to go into all those details at some other time. I suggested also last time, Mr. President, that the Government of India should have an industrial census. Let us have proper figures, and for that reason I also suggested that the Government of India should introduce a Bill compelling people to provide statistics. This Bill is now overdue. I wish to go a step further and say this. My Honourable friend, Mr. Mitra, proposes that Government should appoint an Advisory Committee to advise the Government on this question, but I would ask one question. The Government of India, some two or three years ago, brought out to this country at their own expense an expert from the League of Nations and that expert advised the Government of India to establish an Economic Council. I want to know from the Government of India as to what they have done in regard to that suggestion. If there is any proper time and suitable time for the establishment of such an Economic Council, it is this time and, therefore, Government should not plead any excuse of want of money for the establishment of that Council. You are taking to yourself very vast and extraordinary powers. Is it not better that you should be properly advised on economic matters by a body of experts? I, therefore, make the appeal, Sir, that the Government of India should not now lose any time for the establishment of an Economic Council. It is a body which will be extremely useful and if you ask my opinion, Mr. President, I would say that such a body will be more useful than a committee of the Legislative Assembly.

Then, Sir, there is one small suggestion which I want to make as regards this inquiry to Government. The Bill proposes that the Government of India should make an inquiry. I want to know whether the Government of India propose to publish the results of this inquiry, otherwise, how is this Legislature going to judge whether the Government came to a right conclusion after their inquiry or not? I, therefore, suggest to Government that it is not enough that they should make an inquiry, but they should publish a report on the inquiry which they would make, so that the House will be able to judge the facts which the report will bring out. Then, Mr. President, Government have selected the method of raising tariffs for preventing dumping. My own view in this matter is that tariff is not really a proper method of dealing with this question at all. My friend, Mr. Ranga Iyer, said that all countries have now raised very high tariff walls. It is true, but have they succeeded in developing their industries on account of the higher tariff? Take the United States of America which has the highest tariff wall. Even she

is suffering from the greatest amount of unemployment today. Therefore, a mere tariff wall is not a sure remedy for the evils from which you are suffering. Then there is another grave defect in this method of tariffs. If you once levy a tariff even for preventing dumping, the Government will get revenue. And when a Government gets revenue so easily, it will also be tempted to retain that revenue. You may call this measure an emergency measure, but it is likely to last much longer than we may imagine. As a matter of fact, England had a measure for safeguarding the industries, and the safeguarding there has now been going on for so many years. The same thing will happen with your anti-dumping legislation. You may talk of that legislation being a very temporary one and an emergency one, but it has a tendency to persist and it will persist. But my gravest objection to a measure of this kind is that this is a method of war. My Honourable friend, Mr. Ranga Iyer, said that we shall retaliate and we must have a tariff wall if Japan wants it.

**Mr. O. S. Ranga Iyer:** I said we are purely on our defence. We are on the defensive. If somebody declares war on you, surely you won't submit to that war. But I said, though we have the right of retaliation, we are purely on the defensive and, if we pass this measure, it is with a view to negotiation.

**Mr. N. M. Joshi:** Well, Sir, my point is this, that this is a method of war. Japan may have declared war; I am not suggesting that Japan has not declared war, but it remains to be seen whether she has actually done so or not. What I do maintain is that this method of tariff is a method of war and, therefore, we should try to avoid it, because war is a speculation and a gamble. We may succeed or we may not succeed. Therefore, it is much better that we should, as far as possible, when we try to deal with a measure of this kind, avoid a measure which will lead to bad blood and also to a disaster. I am not suggesting that Japan has really gone on war with us. We should not take immediate measure at all. What I am saying is that this method may not ultimately succeed and may lead to worse results. I, therefore, think that, on the whole, if we have to protect our industries, the method is not a method of war. The method we should adopt is that of International co-operation. In this connection, I had also made a suggestion on the previous occasion. You will remember, Sir, that in 1929 both you and myself were at Geneva and, in that year, I moved a Resolution in the International Labour Conference suggesting that there should be an All-Asia Labour Conference to consider the problems that arise in Asiatic countries. That Resolution has now been passed and the International Labour Office is very anxious that there should be a Conference of Asiatic countries to deal with labour problems of those countries. I am not suggesting that that Conference should be held today. It cannot be held so long as Japan and China choose to fight with each other. But what I say is this: here is a measure which is likely to lead to some proper understanding between the Asiatic countries on at least one question, namely, the labour question, and Government should investigate such questions and resort to those methods more than the method of raising tariff walls. Mr. President, I do not wish to go into any more of the details, but so far as my own views are concerned, for the present I am prepared to support this Bill.

**Sir Hari Singh Gour:** Sir, I should like to add a few words on the motion of my Honourable friend, the Member for Commerce. I heartily congratulate him upon taking the action which he proposes to do for the safeguarding and protection of Indian industries. His action is wise, though belated, but nevertheless it is a wise action, because the Indian industries are in sore straits and require protection. Honourable Members on both sides have referred to dumping by Japan. There can be no doubt whatever that the inflated currency of Japan has contributed to the dumping of her products, not only in India, but in other Asiatic and European countries. In giving my support to this motion, therefore, I wish at the same time to point out to my Bombay friends represented by Mr. Mody in this House that whatever assistance the State might give to the struggling industries in this country, it would not serve as a panacea for the depression and evil to which they are subject. Japan's paramount position in the industrial world at the present day is due to several causes, one of them undoubtedly at the present moment is dumping. But before she started dumping, she had ultimate State control over all industries. Mikado is the father of the people and his Government take truly paternal interest in the initiation, growth and developing of its national industries. If these industries were in a state of struggle, the Government immediately came to their rescue with expert advice, and banks proffered additional capital and financial aid on easy terms till they were rehabilitated. My friend, Mr. Thampan, whispers from behind: why should not the State in this country act likewise? It is for the purpose of drawing attention of the Honourable Member and his colleagues on the Treasury Benches that I am recapitulating some of the facts which have made Japan a great industrial nation she has become.

If the industries, factories and mills in Japan were found to be inefficient, the State immediately took control of them and for a period of 13 years some of these mills were run by the State and then made over again to the concerns, giving them such expert advice as sufficed to make them a profit earning concern. The second thing that Japan has been doing since the inauguration of her policy of industrialising the nation has been ruthless protection. Honourable Members are perhaps not aware to what extent the policy of protection has been applied in Japan. Japan classifies all industries into present and future to be developed in the near and in the remote future, and if Japan finds, on expert advice, that a certain industry has a chance of development in the country, the first thing that Japan does is to place a very prohibitive import duty. The import duty in Japan rises up to about 350 per cent.—a truly appalling figure.—and in certain very exceptional cases where Japan has a monopolist interest, the State for example having a monopoly of tobacco like France, the import duty reaches the maximum and is regulated from time to time. But apart from protection and the manipulation of the currency, the two great factors which have contributed to the pre-eminence of Japan are her policy of mass education. The system of education in Japan produces the least waste in the product of her educational system. From the age of six right up to the age of 21, the State watches over the progress of the alumni of the primary, secondary and higher schools and advises parents to drive their children into channels into which they would be of the greatest service to themselves and to the State; and so, by the diversion of talent into the various fields in which there is room for

display of talent, Japan is able to man her industries by operatives and workers who have a real aptitude for the work they are called upon to do. The third thing that Japan has been doing is what is popularly known as rationalisation of her industry. Rationalisation of her industries comprises the most economic system of buying, production and distribution of her products. As everybody knows, the raw produce is purchased by huge corporations at the minimum of profit to the corporations concerned. They are carried in Japanese ships and are distributed to the various industries at a very economic rate. And there is a vast network of distributing organisations for the purpose of selling the goods which are turned out by the factories.

The last factor to which I would advert is the efficiency of Japanese labour. My Honourable friend, Mr. Joshi, in his speech today and on a previous occasion, has been reiterating a statement that the Japanese labourer is dearer than the Bombay labourer. In one sense he is, in the other sense he is not. The fact is that the efficiency of the Japanese operative is at least two or three times greater than the efficiency of the Indian mill operative, and the reason is simple. In all the factories that I visited, the operatives are all girls from the age of 16 to about 22 or 23. They get an average of about one-yen and 50 sens. At the present rate it is very much less, but at the ordinary rate it would be about Rs. 1-8-0 or Rs. 2. But when they were getting that amount, they were in charge of from 12 to 20 automatic looms. And in large halls, about ten times the size of this Assembly building, you would hardly see more than a dozen or two dozen girls working. I was somewhat surprised at the paucity of the number, because in the Indian mills it appears as if a public meeting is being held automatically inside the factory. I asked the Director and he explained to me that the difference between Indian and Lancashire and Japanese mills was that the Japanese mill operative attended from 12 to 20 automatic looms whereas in Bombay, my friend, Mr. Mody, will correct me, the operative only looks after two and, only recently, in Lancashire. I believe, they are now looking after six looms where they used to look after three. So that if you take into consideration the outturn every day in comparison with the price paid to operatives, the Japanese labourer is very much cheaper, much cheaper than the Indian labourer and cheaper certainly than the Lancashire labourer. Only about two or three days ago, I was reading in a newspaper the report of a speech delivered by an expert in Manchester and he said that the difference in the wages between the Lancashire operative and the Japanese operative ran to about 10 or 15 times. I am not going to make any comparison between the wages of the Bombay operative and the Japanese operative, but if I look at the question from the standpoint of the outturn, I submit I should be on safe ground if I said that on the whole the Japanese operative is about two or three times cheaper than the Bombay operative, and the reason for it is that the Japanese nation is a well-disciplined nation like the German nation before the war. There is compulsory military service and consequently there is a strict sense of discipline. Added to it their abundant patriotism makes them do work which the Bombay mill operative can never hope to do unless he is equally inspired by a patriotic feeling to compete with all comers for the glory and greatness of the nation. But, on the other hand, it is a lamentable fact that the Bombay operative very frequently goes on *hartals* or runs away to his agricultural farm when the rainy season comes on and the result, therefore, is that there is a break in the working of the mills or of the factories. If there were that

[Sir Hari Singh Gour.]

continuous work and that sustained effort to produce goods as they do in Japan, the efficiency of the Indian mills would be doubled, if not trebled.

Now, Sir, that brings me to the other point that I was going to make. My friend, Mr. Joshi, as the representative of labour, has drawn the attention of the House to various factors, but the question upon which I should like to draw the attention of the Honourable the Commerce Member is this. By the import duties that you are going to levy, a large sum of money would accrue to the coffers of the State. Should not a considerable portion of this money be utilised for the education and improvement of labour conditions in the mills and factories in India? It should not go into the general revenues, but must be utilised for the purpose of developing and improving the nascent industries of the country and for the purpose of giving education to the labourers and their children and improving their social amenities. If the money is spent in this direction, it would in a very short time show a result in that the labourer would improve in efficiency. He would make more of a sustained effort and it would require less and less of the machinery of protection to sustain the industrial life in this country. I think, Sir, it was in one of the speeches delivered by an English literary man to a Scottish University as Rector that he made a pregnant statement that an educated cobbler is better than an uneducated one, and I beg to submit that an educated labourer is much better and more efficient than an uneducated one. The quality of his work is improved and, with the improvement of the quality of work, the price of the product will also go up.

Now, Sir, reference has been made in passing to the increased cost that this tax would involve to the consumer and my friend, on the other side, Mr. Joshi, or some other Members also referred to the fact, that, while we are quite prepared to bear the increasing cost for the purpose of preventing dumping, we must not be oblivious of the fact that this should not be a permanent burden upon the consumers in this country, and, therefore, side by side with protection which industries are to be given, action must be taken by the Government to see that the duration of protection is as short as possible.

Sir, before I sit down, I cannot help giving a warning to the representatives of the mill industry in Bombay. The mill industry in Bombay, so far as I have been able to gather, is yet carrying on its old traditional antiquated ways. You have the wasteful system of managing agencies. You have commissions on buying and selling. You have the great Seth sitting at home employing his nephews and his grand-nephews as managing directors and this system of patronage is eating into the very vitals of the industries of this country. If there is to be efficiency, it must be on the basis of the survival of the fittest and the industries, sheltered though they are by the tariff wall, they must not forget that they have a great duty towards the Government and the people by setting their own house in order. My Honourable friend, Mr. Joshi, said that there should be an enquiry. It should be made through Government, but I submit that the people who should really make an enquiry and profit by it are not the Government, but the mills themselves, and they should send out their industrial representatives to study the industry in Japan and profit by it. An official enquiry will be a second-hand enquiry and if there is to be any result, there should be a direct enquiry and not by persons who are not directly connected with the enterprise, but by persons who

have staked their capital in the venture, and they are the best persons to go and see for themselves as to how they can improve their industries. My friends know how such industrial missions from Japan and other countries have gone to all parts of the world to study what is called market conditions, and incidentally they study also not only the market conditions, but also the general conditions as to how their own home produce might be marketed with advantage in other countries.

**Sir Cowasji Jehangir** (Bombay City: Non-Muhammadan Urban): Will he give us a letter to the Government of Japan?

**Sir Hari Singh Gour**: My friend is asking a question. If he comes to me and makes that request, the answer will be in the affirmative. Sir, one more word and I have done. My friends belonging to the mill industries are apt too often to consider that if they do not make money, and I am speaking of large joint-stock companies, not of the struggling cottage industries which deserve every protection, in these large capitalised industries, as soon as anything goes wrong, they seem to think that the first thing they should do is to take a bee-line to Simla or Delhi. I think, Sir, that the proper thing is to take a bee-line to the country which is competing with them and then they will be able to see for themselves that whatever may be the assistance they get from the State, it will never suffice to rehabilitate their industries, unless they are able to compete with them upon even terms.

**Mr. Muhammad Muazzam Sahib Bahadur** (North Madras: Muhammadan): Sir, I entirely agree with my friends, Mr. Ranga Iyer and Sir Hari Singh Gour, that this Bill has been long overdue. Sir, Mr. B. Das, speaking of Japan, told the House that Japan had taken an attitude which it should not have taken towards India, and my friend, Mr. Mitra, controverted that statement and I entirely agree with Mr. Mitra that if a country develops her industries, no other country can have anything to say against it. If we are not in a position to develop our industries, if we are not in a position to stave off competition from foreign countries, it is our own fault, and it is up to us to remedy the defects which we may find, although at the present moment this is a matter which has come into being by a combination of factors, amongst which, so far as Japan is concerned, I might mention cheap labour, inflated currencies, bounties, reduced freight rates and last, but not least, efficient organisation. Sir, it is no doubt a fact that we are at the present moment in very abnormal conditions, conditions which may last some years, at least for another year or two, and if the Government at this stage come forward to afford protection to indigenous industries, to the industries carried on in India, with a view not only to safeguarding the interests of these industries, but with the object of keeping them alive, when they find that the very existence of these Indian industries is at stake, if the Government have come forward with this very beneficial measure and the object of the measure is to arm the Executive with powers to act when they feel it necessary, I think, Sir, that such a power conferred upon the Executive by the Legislature in the abnormal conditions through which we are passing is one which is pre-eminently necessary; and, in this connection, I might at once say that I do not consider the formation of any Advisory Committee of seven or nine as essential to the carrying out of the provisions of this Bill. As all Honourable Members know, there is already

[Mr. Muhammad Muazzam Sahib Bahadur.]

an Advisory Committee attached to the Department of Commerce, but unfortunately for that Committee it has not been called upon to act. As a matter of fact—I may be corrected if I am wrong—I think that throughout the whole of last year there was not one meeting of that Committee. At the initial stages, it will be necessary not only to come to some decision with regard to any particular industry, but with regard to more than one industry. As a matter of fact, at the initial stage it will be necessary to take a comprehensive view of such industries as need protection merely for the reason that otherwise they would be effaced. If that is the position to start with, then I think that that Committee may be called upon to co-operate and offer its advice and opinion to the Executive, so that effective action might be taken by the Executive. In the matter of affording protection, as my friend, Sir Hari Singh Gour, pointed out, protection ought always to be temporary. In this case it is temporary: under this Bill, power is to be conferred on the Governor General to act until the 1st April, 1935, that is, for about two years; and the question, as very eloquently put forward by Sir Hari Singh Gour, was that when you afford protection to home industries, it is your duty to see that the protection does not extend over unreasonably long periods as a result of which the public and the ordinary citizen may have to suffer in that he is called upon to pay a higher price for his daily necessities. Such a condition in the present case, however, does not arise. What we are called upon to do is to confer such powers on the Governor General as may enable the Executive to act whenever necessary within the space of the next two years; and I am glad that, instead of coming forward with piecemeal legislation dealing with one particular subject, the Government have thought it fit to come forward with a very comprehensive Bill, a Bill which comprises every industry that may stand in need of protection. And another feature of this Bill is that it affords protection, not only to the manufacturing industries, but also to the agricultural industries, because I find in clause 2 of the Bill that both produce and manufactures are to be protected: so that the manufacturers of sugar candy, for instance, and the producers of wheat,—all these would benefit as coming under the category of indigenous industries. The notification, which the Governor General would be empowered to issue under the provisions of this Bill, will require the approval of both the Houses of the Legislature, and it is provided that if it is not approved within two months after it is laid before the two Houses, *ipso facto* the notification will be of no effect. I think that is another commendable feature of the Bill: so that looking at it from every point of view, I give my wholehearted support to this measure and I think we will be in a position to pass this measure without any opposition.

**Mr. A. H. Ghuznavi** (Dacca *cum* Mymensingh: Muhammadan Rural): Mr. President, that this piece of legislation has been dictated by my friends, the Bombay millowners, I have no doubt. My Honourable friend, Mr. Mitra, yesterday gave us how it was originally started. He said it was on the 23rd January, that notice of a Resolution was given by my Honourable friend, Mr. Mody, followed up by my Honourable friend, Sir Leslie Hudson, who is also from Bombay, and followed again by the European Group of which he is the Leader; and on the 4th March, he said, there was an unholy alliance between my Honourable friends from Bombay and the European Group. I feel that this legislation will not help the smaller

industries, and that the smaller industries will still continue to suffer. I think it will only benefit the Bombay millowners and put further money into their pockets. But Government have decided to support Bombay and so the Bill will be passed in spite of whatever we may say.

My Honourable friend, Sir Cowasji Jehangir, the other day, on the 20th March, made a remark on the floor of the House that he was looking to the gallery to see whether there was any Japanese present there and that, when he found that there were no Japanese in the gallery, he was sure that I will sit down in five minutes. Well, Sir, it is only Members like my Honourable friend, Sir Cowasji Jehangir, who could have made this utterance. Let me see today if there is any Japanese present today or if there is any Marwari present . . . . .

**Mr. Gaya Prasad Singh** (Muzaffarpur *cum* Champaran: Non-Muhammadan): Is it in order, Sir, to refer to the gallery on the floor of this House?

**Mr. A. H. Ghuznavi**: I would have inflicted upon him a speech today which I would have continued for two or three days . . .

**Sir Cowasji Jehangir**: I will withdraw the remark. (Laughter.)

**Mr. A. H. Ghuznavi**: I will sit down then in five minutes. Now, what about the consumers? What about the merchants? Many of us have received telegrams from merchants and, with your permission, Sir, I will read these telegrams. What about the existing contracts? This is the telegram from the Honorary Secretary of the Marwari Chamber of Commerce . . . . .

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): We also have received telegrams.

**Mr. A. H. Ghuznavi**: The telegram says:

"Marwari Chamber of Commerce, Calcutta, apprehends that Government is contemplating further increase in duties on imported piece goods as a measure to check dumping from countries with depreciated currency. Should the Government reach at such a conclusion my Chamber strongly request to exempt goods of existing contracts from such impositions which if insisted upon will prove the last straw for the merchants to break the camel's back."

With your permission, Sir, I want to lay this telegram on the table.

Then, Sir, there is another telegram in continuation of the previous telegram, and that reads as follows:

"Referring previous telegram Marwari Chamber of Commerce, Calcutta, is greatly alarmed at the press report of Government thinking of imposing additional duties leviable under Tariff Act as an emergency measure safeguarding industry. In recording our emphatic protest, my Committee desire me to reiterate that should the measure be adopted the most serious sufferers will be merchants. Sudden and frequent changes in fiscal policy calculate nothing less than penalising merchants for safeguarding industrialists at this critical juncture when purchasing power of poor consumer is very low as admitted by Finance Member. Secondly under section 10 of Tariff Act all enhancements in tariff on existing contracts are to be borne by merchants. Safeguarding merchants' interests equally incumbent upon Government. Capital investments of the merchants at stake is many times more than investments of industrialists. My committee find no reason why merchants interest overlooked. My committee strongly request to exempt existing contracts and earn the gratitude of merchants who are constantly facing heavy losses for so many years. If duty on existing contracts insisted upon the merchants in the opinion of my Chamber will be ruined."



[Mr. A. H. Ghuznavi.]

Now, here is the third telegram from the Indian Importers Association, and this is what they say:

"Indian Importers Association strongly protests against any intention of Government for further enhancement of import duty on cotton piecegoods under the Safeguarding of the Industries Act (P), 1933. My Association urges Government to launch an inquiry into the present deplorable position of piecegoods trade in India of any country of origin which is extremely demolished owing to the severe fall in the purchasing power of poor consumers who have to sell the produce of their labour at too low prices and cannot consequently afford to buy anything at existing rates whatever enhancement of duty is calculated to fall entirely on the importers' shoulders. My Association earnestly appeals Government to at least exempt the existing contracts and those already made as otherwise the import trade of Calcutta port will be totally crushed. My Association fully supports views of Marwari Chamber of Commerce."

Now, Sir, this was followed up by a letter, and I will only read the last paragraph of it, with your permission:

"It is now admitted and well established that the fall in the purchasing power of the masses has been very sharp since 1929-30. There has also been a steady fall in the prices of the staple products in India, whereas the income of the average consumer shows no sign of improvement. In addition to these, to the dismay of the consumer, every year he is saddled with the burden of enhanced duties. The result is obvious, as substantiated by the recent increase on artificial silk. From 50 per cent. existing duties on artificial silk, it was raised to about 130 to 150 per cent., as a result of which the market prices appreciated only by 5 per cent. for a short time, but readily reached the original level or in some cases below the same. The merchants, therefore, are out of pocket to the extent of the difference between the rise in the duty and the rise in the internal prices, which for some time past is *nil*.

The situation has become more disastrous in view of the fact that the new duties are imposed on the existing contracts without sufficient previous notice to the merchants, who have to bear all enhancement of duty on the forward contracts, as per section 10 of the Tariff Act. The sudden and frequent changes in the fiscal policy calculate nothing less than penalise the merchants, though the capital investments of the merchants throughout India is many times more than the investments of a few but clamorous industrialists. In view of this, in case due notice cannot be given to the merchants previously, sheer equity and justice demand that the existing contracts entered into, before any duty is levied, should be exempted from these impositions. But, apart from the heavy losses that the merchants have been constantly undergoing for the last so many years, if these fresh heavy duties are imposed on the existing contracts even, it would certainly, in the opinion of my committee, prove the last straw on the camel's back. My Committee, therefore, hope that in the interest of a huge community of merchants, you will be pleased to take such steps as to get the existing contracts exempted from fresh impositions."

I hope, Sir, the Honourable the Commerce Member will take into consideration the claims of the merchants and also the interest of the consumers who should not be penalised and that the existing contracts of the merchants will be protected.

My Honourable friend, Mr. B. Das, made a very savage attack on the Japanese yesterday. Why? Because the Japanese have proved their efficiency, they sell their goods throughout the world at competitive prices. This has been their sin, for which my friend made a ferocious attack. . . .

**Mr. B. Das:** My attack was levelled against the aggression of Japan over China. How can I shew friendship to Japan?

**Mr. A. H. Ghuznavi:** That has nothing to do with what they are doing in India. You will remember, Sir, that in 1930, when you were sitting on the Opposition Benches, with your esteemed Leader, Pandit Madan Mohan Malaviya, the unfortunate Cotton Textile Industries (Protection) Bill was before the House. I warn the Honourable the Commerce Member that

whenever he thinks of giving protection, he should read carefully and go through the debates of the year 1930. If that Protection Bill was not forced on this House against the will of this House, Sir, today things would have been different in India. Lord Irwin, in November, 1929, made the great Declaration of a Round Table Conference which rallied round almost the whole of India to his side. On that fateful day in 1929, I mean the 24th of December, when Lord Irwin's special train, while he was coming to meet Mr. Gandhi and other leaders, was bombed, but was providentially saved, when on that day he met Mr. Gandhi and he had refused the olive branch, the rest of India was against Mr. Gandhi since that date, and but for the rushing through of that Bill,—and Pandit Malaviya said so in so many words to every one of us, he would have taken up the battle and fought against the civil disobedience movement, but his heart broke when Government refused to give him a hearing at the instance of my friends, the watchdogs of the Bombay industrialists. They had the greatest fighter in Mr. Jinnah whom they had briefed for a particular purpose, and while the Government, at one time, on the 31st March, were willing to consider to a certain extent Pandit Malaviya's amendment, Mr. Jinnah, on their behalf, misled the Leader of the House, and the result was that he refused to consider the amendment. Sir, it resulted in acts of civil disobedience which has put the whole of India into chaos. Then, Sir, what is the result? Our Bombay friends started the civil disobedience movement. It is they, the Ahmedabad mills and the Bombay mills, which put the money into the pockets of Mr. Gandhi to carry on the civil disobedience movement, thanks to the Treasury Benches for giving them the profit, the additional money they wanted to put into the pockets of Mr. Gandhi to carry on the civil disobedience movement. I hope the Commerce Member, whenever he tries to please Bombay and Bombay, will not forget that he has another duty to perform, and that is to look to the consumers and to the merchants, and not to blindly follow our Bombay watchdogs who day and night go to him with their beggar's bowl.

**Mr. Gaya Prasad Singh:** Sir, I would heartily welcome any measure which has for its object the protection and safeguarding of the national industries of this country. But there are just one or two circumstances surrounding the inception of this measure which makes a cloud of suspicion across my mind, and nobody would be better pleased than myself if that cloud of suspicion is dissipated. It has been stated that my Honourable friend, Sir Leslie Hudson, gave notice of a Resolution couched in identical terms with the Resolution of which notice was given by my Honourable friend, Mr. Mody. I should like to know what point of connection there is between the interests of the representatives of foreign import and commerce in this country and the manufacturers of Indian industries.

**The Honourable Sir Joseph Bhoré** (Member for Commerce and Railways): May I interrupt my Honourable friend for one moment. I should like to assure him that the Government began consideration of this measure long before they had received any notice of any motion or Resolution in this House.

**Mr. Gaya Prasad Singh:** I am quite satisfied with the reply of the Honourable the Commerce Member, and I congratulate him heartily on taking into his hands a measure which does not owe its inception to the initiative of the representatives of the European Group. It was in this

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view of the matter that I had tabled one or two amendments which have the effect of giving protection only to Indian-owned industries.

**Mr. F. E. James** (Madras: European): May I be permitted to make one slight observation? Of course there has been some misunderstanding as a result of the rather charming by-play of humour on the part of my friend, Mr. S. C. Mitra. The Resolution, which is referred to as having been given notice of by Mr. Mody and by certain members of my own Group, referred specifically and exclusively to the protection of indigenous industries and I should like to make that clear.

**Mr. Gaya Prasad Singh**: I should like to know from Mr. James how he is interested in the protection of the indigenous industries of this country, or, for the matter of that, the other members of the European Group; or is it as a matter of vicarious sympathy for the industries of this country which have been strangled in the early days by his ancestors? I have no quarrel with him now. However, Sir, I am glad that my friends of the European Group have joined hands with the millowners of Bombay in trying to give the much-needed protection to the genuinely indigenous industries of this country. There is one little doubt which still lingers in my mind. Suppose we give protection to a particular Indian industry by raising the tariff wall. What prevents a foreign manufacturer from coming and establishing himself in this country and getting the advantage of the protection under the shade of the tariff wall?

Now, for instance, there is a glass manufacture in this country. in Satara and other places. Suppose we decide to raise the tariff on the import of foreign glass products. Now, if a representative of a foreign firm comes and establishes himself in this country, what is there to prevent that firm from getting advantage of the protective duties which we have imposed on the import of the foreign products. That is a point which should be carefully looked into, and I will ask my Honourable friend, the Commerce Member, to give some sort of assurance on that point. I may not move my amendment. It may not be quite suitable or it may not quite answer the purpose which I have in view. Plainly speaking, I have placed before the Government and the House the doubts which I still entertain on the subject.

My Honourable friend, Mr. B. Das, has made a very violent onslaught on Japan. It is as violent as the onslaught of Japan on the Chinese territory, only it has had very little effect. My friend has been castigating Japan for having invaded China. I should like to see him finding fault with England for having conquered this country and keeping it in subjection for more than a century and a half. My friend whispers that he did so in his early youth. It appears that years of discretion have dawned on him only recently perhaps. History shows how England forced her goods down on India. On a former occasion I quoted from some of the historical accounts showing the way in which legislation was actually undertaken in England prohibiting altogether the import of Dacca Muslin and other finished goods from India into England. I do not find fault with her for trying to dump her cheap goods into India. We must also be on our protection. What Japan does now, England herself did in the early ages.

There is only one point in this connection which I should like to mention, and it is this that, if we pass this measure, we must guard ourselves that no unfair competition arises between the indigenous industry in India and the foreign products which might come either from England or from the representatives of foreign firms which might establish themselves in this country, in which case the millowners of Bombay will rue the day when they waxed eloquent over this measure. I can only give expression to an apprehension which I entertain on the matter, and nobody would be better pleased than myself if I could be reassured on that point, because, in trying to get away from competition with Japan, our industries might get entangled in a competition with England or other countries. In this connection I should also like to know how it has been possible for Japan to force down her goods on India at such a specially low rate and why our industries have not been able to stand competition from Japan or other countries. I hope, Sir, it is not due to the inefficiency of our industries. If it is, the representatives of the mill industry in this country should look closer into the matter and see how they can get the best results out of their endeavours. Sir, in order that my millowner friends should be absolutely sincere in this matter, they must try to genuinely love the product of their own mills. For instance, they must appear in the cloth woven in their own factories and in their own mills. Some of the representatives of the mills in this country are in the habit of distinguishing themselves in foreign cloth. (Laughter.)

**Mr. B. Das:** Sir, can my friend ask the millowners' representative present here as to what texture of mill cloth he is dressed in—whether of their own material or of some material purchased in Paris or Bond Street, London?

**Mr. Gaya Prasad Singh:** Sir, by putting on foreign cloth, the representatives of the mill industry in India are proclaiming the superiority of the foreign manufactures over their own finished products, and I would strongly deprecate the continuance of that practice. I quite agree with the very wholesome advice which was given by my revered Leader, Sir Hari Singh Gour, to the representatives of the mill industry in this country. He said that instead of going on a pilgrimage to Simla or Delhi for protection, my friends should send a mission to Japan or other countries, with whom they are on competitive terms, to study the situation. I quite agree with that view, Sir; and I would go further and say that no sort of pilgrimage should be undertaken, either political or economic, to that quarter. We must try to stand on our own legs and improve our methods.

Sir, this Bill confers wide powers on the Executive. I do not grudge that. The wide powers are hedged round with the condition that the Resolutions passed by the two Houses should have a binding effect on the decision of the Government in this matter. Sir, even the constitutional reforms that are coming—continuing my arguments about the way in which we should guard ourselves against the importation of English goods or other goods into India,—I am afraid, fall very far short of giving us any real power in that direction, and I would earnestly request my friend, the Commerce Member, to see that no sort of adverse influence is allowed to come into play to affect our industries in this country. In this connection I would refer to the latest pronouncement of Sir Samuel Hoare in the House of Commons in which he said, referring to the Indian Delegation

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to the Joint Parliamentary Committee, that his own view was that the Indians should attend for consultation and not as members, and that the Indians should not vote and probably they should not participate in the drawing up of the report. They should be present only at the preliminary stages, but it would be left to the Committee to decide the further stages. If that is the position of the Indian members to be attached to the Committee, I have grave doubts as to whether our economic or political interests would be protected or promoted in the Parliamentary Committee which is going to function in London in the near future.

**Sir Muhammad Yakub:** Why then has the Leader of the Honourable Member accepted the membership of such a Committee?

**Mr. Gaya Prasad Singh:** I am not here to answer personal questions like that. I would try to avoid all personal references, but I shall hit back by asking why have some of the habitual supporters of Government also accepted nominated seats on that Committee? Sir, the last point I would like to urge is that . . .

**Sir Muhammad Yakub:** Well, I have received no invitation so far.

**Mr. Gaya Prasad Singh:** Sir, the last point to which I would refer is that the consumers' interests should not be forgotten. After all, I maintain that we should try to use as much Swadeshi articles as possible and should give an impetus to the indigenous industries in this country, but failing that, we should be allowed to purchase in the cheapest market and no sort of impediment should be placed in the way of the consumers being touched in their pockets in the interests, not of the indigenous industries of this country, but of the foreign manufacturers. I also hope, that this measure is not the thin end of the wedge for the introduction or rather the expansion of the Imperial Preference scheme which was inaugurated in Ottawa. Sir, I do not desire to say anything which might be construed as being hostile to the measure before the House. I have only ventured to express my opinion on certain features of the proposals as they strike me, and I should be very pleased if I am assured that my doubts, such as they are, are without any foundation. In this view, I support the principle of the measure which is before the House.

**Several Honourable Members:** I move that the question be now put.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Chair accepts the closure. The question is that the question be now put.

The motion was adopted.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Does the Honourable the Commerce Member want to reply?

**The Honourable Sir Joseph Bhoré:** Sir, there are just a few points on which I would like to say a few words. In view of the reception which this measure has received at the hands of this House (Loud Applause) and which I acknowledge with gratitude, I do not think it is necessary

for me to say more than a very few words. I should, however, refer to one or two points, more especially as certain Honourable Members have said that they are devastated by certain suspicions. My Honourable friend, Mr. Das, my Honourable friend, Mr. S. C. Mitra, and my Honourable friend, Mr. Gaya Prasad Singh, all said that they were full of suspicions.

**Mr. Gaya Prasad Singh:** I never said "full of suspicions"; I said I was beset by a cloud of suspicions.

**The Honourable Sir Joseph Bore:** Well, Sir, I did not realize whether that cloud was a filmy one or was a very dense one. It is always difficult to allay suspicions especially when these suspicions are not really founded upon some real tangible base or foundation. I can only give my Honourable friend an assurance in this matter; and, so far as I am concerned, I can only ask them to accept that assurance. I cannot go beyond that, and I cannot prove by mathematical processes that their suspicions are not well-founded. First, let me take the point raised by my Honourable friend, Mr. Das. He wanted to know the exact procedure that we would adopt in giving effect to the provisions of this Bill. Now, that is a somewhat pertinent question, but I regret I am not in a position to give him a considered reply for the simple reason that the Commerce Department have not yet addressed themselves to that question and are not yet in a position to say on what lines they will proceed when they come to apply this Bill in practice. I fully realize the practical difficulties that will beset us when we begin to apply this measure in practice, but I do assure my Honourable friend that the interests of the consumers will not be allowed to be ridden over roughshod and I do also want to utter a warning that the passage of this measure must not be regarded as a sign for every industry to join in a scramble for protection.

My Honourable friend, Mr. S. C. Mitra, felt that this measure would, by some backdoor, be used to give preference to Great Britain.

1 P.M. Now, Sir, I have endeavoured to see how it was possible for that suspicion to arise and I do assure him that I have not been able to find out how and in what way we can possibly use this measure to give preference by a backdoor. If he will come and explain his difficulties to me in this matter, I shall do what I can to try and remove any doubts that there may be in his mind on this question. Then, Sir, my Honourable friend, Mr. S. C. Mitra, has two motions, the object of which is to provide help and assistance to Government in framing a notification under this Bill. There are objections both on grounds of inconvenience and on grounds of principle to such a suggestion. I do not wish to go into that matter, because I hope that my Honourable friend will not press the motions which he has tabled. I bring to his notice the fact that clause 3 of the Bill gives this House powers of control with which he and every Member of the House should, I think, be satisfied. The real reason against this proposal was stated by my Honourable friend, Mr. Joshi. While we would no doubt welcome assistance and advice on this highly technical matter, as Mr. Joshi pointed out such advice would more properly come from a highly expert body such as an Economic Council, and I hope my Honourable friend will realise that there is some substance in a criticism of that sort.

**Mr. S. C. Mitra:** Is there not such a Committee as the Import Duties Advisory Committee in England?

**The Honourable Sir Joseph Bhoré:** I believe there is, but I do not think that that Committee consists only of Members of the Legislature.

**Mr. S. C. Mitra:** Yes, it does.

**The Honourable Sir Joseph Bhoré:** My recollection is that it contains people who are highly qualified to advise on a matter of this description; I may be wrong.

Then, Sir, I would refer to one or two other points which have been raised in the course of the debate. I was somewhat astonished to find that my Honourable friend, Sir Hari Singh Gour—and in this matter he seemed to have joined hands with my Honourable friend, Mr. Joshi—regarded this measure as essentially a revenue producing measure. It is nothing of the kind.

**Sir Hari Singh Gour:** I did not say that it was a revenue producing measure. What I did say was that it will produce revenue.

**The Honourable Sir Joseph Bhoré:** May I bring it to the notice of my Honourable friend that the whole object of anti-dumping duties is not to produce revenues, but to stop or reduce the importation of particular articles. (*A Voice:* "What will be the result"?) The result will be that my Honourable colleague, the Finance Member, may probably be seriously affected.

I was astonished to see the suggestion that fell from my Honourable friend, Mr. Ghuznavi. He must be singularly deaf and blind not to appreciate the sources from which the demand for this piece of legislation has come. I say that, Sir, deliberately and with a sense of responsibility. I would also ask my friend whether he suggests that I am repeating what he said was done, on a previous occasion, namely, that I am forcing this piece of legislation down the throat of this Assembly. If that is his suggestion, then I have no hesitation in replying that if this motion were pressed to a division, we should have a repetition of that historic division which we had yesterday. (Laughter.) Sir, I do not think it is necessary for me to go on very much further. I would only make an appeal to my Honourable friends opposite who have tabled a number of amendments. I would ask them to consider whether those amendments are really essential and, if, in their view, those amendments are not absolutely necessary to enable this measure to be worked satisfactorily, I would appeal to them to withdraw them.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That the Bill to provide for the imposition of additional duties of customs on imported goods for the purpose of safeguarding industries in British India, be taken into consideration."

The motion was adopted.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That clause 2 stand part of the Bill."

Does Mr. Jog want to move his amendment No. 3?

**Several Honourable Members:** Withdraw, withdraw.

**Mr. S. G. Jog:** Sir, in spite of the persistent and the consistent demand on this side of the House to withdraw my amendment, I, for one, am not inclined to withdraw it. I must press my amendment and bring to the notice of the House what I mean. When I gave notice of this amendment, it was not without . . . . .

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. It appears to the Chair that Mr. Jog's amendment would be a consequential one in case a suitable amendment is adopted by this House making it obligatory on the part of the Government to set upon an Advisory Committee. The Chair thinks that it will suit the convenience of the House if a decision were taken on that point. The amendment that will carry out that object is amendment No. 6 by Mr. S. C. Mitra. That amendment can first be taken up and, if it is adopted by the House, then Mr. Jog's amendment will become a consequential amendment, but if that amendment is negatived or not moved, then Mr. Jog's amendment will not arise.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

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The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) in the Chair.

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**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That clause 2 stand part of the Bill."

**Mr. S. C. Mitra:** Sir, I move:

"That in sub-clause (1) of clause 2 of the Bill, after the words 'after such inquiry as he thinks necessary' the following be inserted:—"

'and consulting the Committee of the Legislative Assembly to be hereinafter provided'."

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): That amendment again is similar to Mr. Jog's amendment. What the Chair thought was that if the Honourable Member, Mr. Mitra, moved his amendment No. 6, which definitely raises the issue whether a Committee, as contemplated by the Honourable Member, should first be set up, then the question will arise whether the Committee is to be consulted.



**Mr. S. C. Mitra:** I will bow to your ruling and take your advice. Sir, I move:

"That after sub-clause (2) of clause 2 of the Bill, the following sub-clause be inserted:

'(3) For the purpose of this Act, the Legislative Assembly shall appoint a Committee consisting of seven non-official Members for the purpose of advising Government to carry out the provisions of this Act'."

Sir, under clause 2(1), this House is asked to delegate its power to the Governor General:

"If he is satisfied after such inquiry, as he thinks necessary, that goods, the produce or manufacture of any country outside India are being sold in or imported into British India, at such abnormally low prices that the existence of an industry established in British India is thereby endangered, he may, by notification in the Gazette of India, impose on any such goods a duty of customs of such amount as he considers necessary to safeguard the interests of the industry affected."

By my amendment I suggest that before passing of any such order imposing any customs duty, Government should consult a Committee of the House consisting of seven non-official Members. Sir, I do not put much stress on the way in which this Committee is to be formed, but I should like to emphasise the implication of my amendment. What I want is that Government should consult some Committee before they come to a conclusion. I should first like to explain that such a procedure is not unprecedented. It has been alluded to also that in similar cases in the British House of Commons they have got an Import Duties Advisory Committee and the function of that Committee is more or less to advise the executive Government on the lines that I suggest. It might be contended that that is an expert Committee, and I shall be glad to modify my amendment to that extent if it is so desired. It has been suggested by my friend, Mr. Muazzam Saheb, that there is already an Advisory Committee attached to the Commerce Department. If the Commerce Member is satisfied with that, I shall be agreeable even to that suggestion. But as regards consulting an expert Committee, I know the Government of India have their own technical expert Committee, the Tariff Board itself. But it has been contended that any reference to that Committee entails a long period of time and in a summary procedure that is contemplated in this Bill it will be cumbersome. I for one make no great fetish of experts. I know even our so-called expert Committee is composed of members two of whom were Members of this House, Mr. Boag and Mr. Fazl Ibrahim Rahimtoola. I have great respect for these gentlemen, but I know that as experts in any technical thing they cannot claim very high efficiency. There is another gentleman, Mr. Mathias, who is, I understand, an economist and I know that in the last meetings of the Board there were only two men. And speaking of experts, we find not only here, but in England also, ultimately, laymen with common sense who are leaders of men in civil affairs are the responsible Ministers of the Crown. I remember it was a layman like Lord Haldane who created the great British Army just before the War. If he was to be considered an expert, he was an expert in law or in philosophy, but not in army matters. And, as I have said repeatedly, I have greater confidence in laymen like my Honourable friend, Sir Joseph Blore, than in those experts on the Tariff Board or other experts in this House. But yet I wish that the Commerce Member himself should welcome a Committee that might advise him in these matters and share the responsibility. The Bill itself is very vague. In the clause itself there are such vague

terms as "abnormally low prices". I think there should be a Committee who should settle whether the abnormally low price should not be considered as lower than the cost of production here in India. And in many other matters this Committee will be in a position to advise Government. We on this side are anxious that there should be no discrimination in the executive action. To provide against all these things we want a Committee. I remember the Commerce Member asked how I could conceive of a case for Imperial Preference in this connection. I should like to make that point clear. It arises indirectly in this way. Suppose the cost of production for a piece of cloth is five annas in Japan, and it reaches India at a selling price of six annas, the cost of production of a similar thing in Manchester may be 12 annas and, including all the expenses, it reaches India for being sold at a price of 13 annas, whereas the cost of production in India of an identical article may be 14 annas. Suppose, under this Bill, some prohibitive duty is put on the Japanese goods. Japan will be prohibited from bringing her articles at a high customs duty. But what will happen? The Manchester article which can be sold cheaper than the Indian manufactured goods in the Indian market will capture the field. Japan's price may be considered "abnormally low" while Manchester articles will be allowed unfair competition with Indian goods. That is an instance that arises in my mind to show how indirectly the question of Imperial Preference may arise. What we are doing here is that we are delegating legislative functions to the Executive. It is not denied that this House even once before gave some preference to British goods so far as textile goods are concerned. What we are required to do by this Bill is to delegate the legislative functions to the Executive. If it is once conceded, and it must be conceded that this House had the right to give the power, this House has the power to give preference to British goods, when we delegate this power to the Executive, they would certainly be in a position to exercise that right. Legally I do not find how the Executive will be debarred from taking advantage of this delegated power of the Legislature. It has been well said by my friend, Mr. Joshi, that there will be a great temptation to continue or extend the scope of this legislation, because it means greater revenue, and I think, if Government could see some way to consult any Committee—I am not anxious to confine to the particular words of my amendment—in any way, if they consult some bodies in order to ensure that the cases of minor industries, like the Bengal hosiery industry or the lantern industry or other industries, may be protected and that they will be given a chance, then, through them, when ultimately the matter comes before the Legislature, the Members of the House will also have the greater chances to know the working of this system. I hope that even though my own amendment might not be acceptable to Government, they will see their way to accept the spirit of this amendment and would provide something of that nature. Sir, I move.

**Mr. S. G. Jog:** Sir, for some reason or other I did not take part in the general discussion, because I have a specific amendment like that of my friend, Mr. S. C. Mitra. I must admire the patriotic feeling which has actuated the Honourable the Commerce Member in introducing the Bill, though undoubtedly he ought to have taken this action sometime before. However, although late, I must still congratulate him for the action he has taken. It is true that we are at the fag-end of the Session and that there are a lot of obnoxious Bills before this House.

[Mr. S. G. Jog.]

But this is a piece of legislation which, I think, is positively for the good of the country, and for this piece of legislation I must congratulate the Honourable the Commerce Member.

When I thought of giving notice of this amendment, I thought that the question of abdicating the power from this side of the House was involved. We on this side of the House take into consideration all the emergency of the case and we are prepared to give ample powers to the Executive and, fortunately for the time being, we have to console about one thing, that is, the head of the Commerce Department is an Indian, both in heart and patriotism, and I hope everything possible would be done for the interest of the Indian industries. As to that I have absolutely no doubt, but, at the same time, I must say, at the time of giving these wide and ample powers to the Executive, that we on this side of the House are not prepared entirely to abdicate our powers. The question no doubt is a complicated one and it is just possible that this House consists of many experts to consider the particular aspects of the case that will arise during the operation of the Act, but, at the same time, Sir, it is not necessary that for everything an expert is necessary. May I go so far as to say, that even the Commerce Member is not an expert, but is he not managing the affairs to great satisfaction? I, therefore, see no reason why he should not be in a position to associate with all the people on this side of the House when there is occasion for consultation. I must make it clear to the House that this is an occasion when we must assert our right and I would also impress upon the Honourable the Commerce Member that this is an occasion when he should give an opportunity to the non-official element on this side of the House and take them into his confidence and take them into consultation, and also give them a chance. Therefore, we should be associated with whatever decisions the Government may arrive at.

It has often times been suggested from the Treasury Benches that we, non-officials, are in the habit of making irresponsible criticism and that we will never come forward with a constructive suggestion. Well, we are now coming forward with a constructive suggestion and say, Sir, that it is a very serious responsibility and a great burden that you are taking and that we want to share that responsibility and burden along with you. When this proposal is coming forward from this side of the House, I see no reason why the Treasury Benches should deny us that confidence or that association which this side of the House is asking for from the Commerce Member. If the Commerce Member thinks that this body will be of an obstructive nature, I give him an assurance that there is nothing of the sort, and that it will be in the interest of Government and it will strengthen their position. Ultimately they have to come before the House for their ultimate sanction on their decision and they can come before the House only when their hands are strengthened, because whatever action is taken should be taken in consultation with the popular element. That is one thing.

Another thing, which I am afraid of is about the bigger industries. There are big industries; probably they will be able to approach the House and the Government, but I have got in my possession several telegrams from different small industries and they find it difficult to make their voice heard when they are in hot waters. Perhaps some of us will speak for their case. I have here with me the grievances of the hosiery

industries, I have with me a representation from spinning industries which are at present suffering from healthy competition against Japanese goods, with the result that unless sufficient safeguarding provisions are made, they would have the least chance to flourish. There are many lantern industries, glass industries also, which are required actually to flourish at this time in India. Every day we are receiving some memorandum from these industries stating that these small industries are struggling and the small industries will be crushed unless you make those safeguarding provisions. No doubt, Sir, this state of things is going on only for the last two years . . . .

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Chair would appeal to the Honourable Member to confine his remarks to the amendment now before the House.

**Mr. S. G. Jog:** Sir, what I submit is that some advisory body should be constituted and the Commerce Member should agree to the suggestion. Sir, I do not think I need say anything more on this point. Although some people think that it is not necessary to prejudice the motion, I for one question about it and I will not give any person the rights of this side of the House. Sir, I support the amendment.

**Mr. T. N. Ramakrishna Reddi** (Madras ceded Districts and Chittoor: Non-Muhammadian Rural): Sir, I rise to support the motion that is before the House. Sir, we are giving emergency powers to the Government, not only emergency powers, but we are giving the Ordinance making powers, powers to make Ordinances in the sphere of economics, though not in the sphere of politics. When we are giving such wide powers to the Executive, it is quite essential, Sir, that the Executive should be taking or should take the advice of an Advisory Committee consisting of non-officials so that non-official opinion also might be voiced when occasion arises. Actually, we are giving up the powers of the Legislative Assembly and giving them into the hands of the Executive. Again, Sir, when these powers are exercised, when the Government are taking steps under the Act, they have again to come before the Legislative Assembly for its ratification within two months, and the Government will be strengthening their hands if they take us into confidence and appoint a Committee of non-officials, and the Government will be strengthening their hands if they take into their confidence a Committee of non-officials. Some of them might be Members of this House. This is exactly on the analogy of what is going on in regard to Constitutional Reforms. The British Government might straightaway have brought a Constitution Act in the Houses of Parliament and introduced it, but yet they want to take into confidence a Committee of Members of both Houses of Parliament, so that the Bill, after it emerges, might pass through Parliament safely and without much difficulty. So also this Committee will serve the purpose with regard to this present Bill. We are giving away blindly powers to the Executive, and we do not know what is the procedure which the Government are going to adopt in giving effect to the various Acts that they are going to pass in giving protection to the industries and what the tests that they adopt in making up their minds to give protection to a particular industry. It will be strengthening the hands of the Commerce Member also if he takes the advice of non-officials. It is not always necessary that he should take expert advice

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alone, because he has got plenty of expert advice in his Department. It is also necessary to take the non-official view on any question that comes before him. We have got every confidence in the Commerce Member, but yet now and then some pressure might be brought to bear upon him from home, that is, the Lancashire interests working at home; and I am sure they will bring pressure to bear upon him indirectly, and if he has got a non-official advisory body, it will be very good for him to act in the interests of the country and to defy any advice that comes from home, and it will enable him to act only in the best interests of India. For all these reasons, I support this motion before the House.

**Mr. N. B. Gunjal** (Bombay Central Division: Non-Muhammadan Rural): (The Honourable Member spoke in the vernacular.)

**Some Honourable Members:** The question may now be put.

**Mr. B. Das:** Sir, although I support the underlying principle of my friend, Mr. Mitra's amendment, I cannot support the amendment as it has been drafted. If I might be allowed to bring out a suggestion, I would become a whole-hogger and support the proposition which my friend, Mr. Joshi, enunciated half an hour ago while he was speaking on this Bill. The whole thing was first considered by Sir Arthur Salter when he visited India two years ago; and although he apologised in his report that his stay in India was very brief, he brought forward a very interesting scheme for economic advisory organisations in India; and if that scheme is accepted by the Government today, it will meet all the points that have been stressed by different Members on the floor of this House. I am not very anxious that there should be a preponderance of representatives of the Legislature on that Committee. Sir, I will only

3 P.M. read just a few lines from Sir Arthur Salter's Report from page 2:

"The period since the war has witnessed the development of what may prove to be an important adjunct to the machine of Government throughout a large part of the world in the form of Advisory Economic Councils and Committees. These vary considerably in functions and in form: but they present certain common characteristics and seem to respond to a widely felt need in the post-war world. The State's action in connection with national economic life has almost everywhere become more extensive and more complex. Whether in the increased range of State control, or the construction of new and more complicated tariffs, or the institution of systems of prohibition or licence or State encouragement for some form of monopolies, the Government has almost everywhere accepted more onerous and intricate duties."

Well, Sir, Sir Arthur Salter at page 20 of his Report has given out a scheme for economic advisory organizations with which my friend, the Finance Member, is well conversant. He suggests a Central Economic Council and also Provincial Councils. This has not been brought forward, because the Round Table Conferences and other urgent work distracted the attention of the Government of India, and so the Government of India could never pay any attention to the suggestions made by Sir Arthur Salter, but I would like to quote one or two lines from the conclusion of his Report, where he says that, if Government give effect to these proposals, it will satisfy Indian public opinion. This is what he says at page 34:

"I realise further that this, or any, scheme must depend mainly for its success, upon the quality of those who comprise the membership of the Councils, and of its principal officers, upon the spirit in which they devote themselves to the work, and upon the willingness and ability of the Government and its administrations to give due consideration, and due effect, to the recommendations that are made."

Sir, I appreciate this, and I approve of this suggestion, and, therefore, I say that the Legislature should not appoint a Committee to give advice to the Commerce Member :

"I have been warned of the difficulty of persuading persons of first rate experience in economic activity and enterprise, who have little leisure to devote time to advising the Government. If this difficulty were insuperable, it would of course be fatal to any proposal such as is here put forward, or to any other of which the essential purpose is to make the expert advice which only they can give available, in the development of Government policy."

Sir, I will quote only one sentence more from the conclusion of Sir Arthur Salter :

"Lastly, it should give Indian public opinion as a whole an assurance that economic policy has been considered by a body representative of institutions in India from the point of India's interests, and if this policy is, as it should be, tempered and adjusted to world conditions and the policy of other countries, this would only be in the same sense and to the same extent as the policies of those countries are in turn tempered and adjusted by the same considerations."

Sir, I feel that the Government have taken a great step forward in introducing this salutary measure and in legislating proposals as contained in this Industries Safeguarding Act, and I do hope now they will also find time to consider whether the very weighty advice that Sir Arthur Salter has given could not be considered and proposals formulated to bring out Economic Advisory Councils both at the Centre and in the provinces so that my friend, the Commerce Member, when he puts high tariffs against goods imported into the country to protect any particular industry, may see that those high tariffs really and effectually work in the interest of those industries. For that his own advisers or his own Department are not enough, and for that my friend needs the advice of the Indian industrial community, the commercial community, and, if necessary, even one or two politicians may be put on in that Committee,—I do not object to their inclusion,—and I think it is high time that this should be done. If the Commerce Member gives us that much assurance to the House, I am sure, my friend, Mr. Mitra, will withdraw his amendment.

**The Honourable Sir Joseph Bhoré :** Sir, it is with regret that I find myself compelled to oppose this amendment, and, if I do so, it is not because I do not recognise the spirit in which that amendment has been moved. But as I have already pointed out, I think there are objections both on the ground of practical inconvenience and also on the ground of principle, and I only propose to refer to what I consider would be the practical inconveniences in the proposal that my friend has put forward. The first thing is, is a Council like this going to be always in Session? Surely if it is, it is going to inflict intolerable inconvenience upon the Members of the Council; and if it is not always in Session, is this Advisory Council going to be summoned every time an industry comes up and asks for consideration of its case? Am I going to summon my friends from North, East, South and West to sit together and advise me on every single application that we may receive? That is the practical aspect. I do not want to refer here to the objections on principle, but I do feel that, whatever decision we may come to after a careful examination of the case, my friend's position will be safeguarded by the fact that it must, always, within a very short period of time, come up for endorsement before this House. That is the real safeguard, and I hope my friend will rest content, at any rate for the time being, with that safeguard and will withdraw his motion.

**Mr. S. C. Mitra:** Sir, for the time being, I think I should accept the advice given by the Honourable the Commerce Member, and I beg leave of the House to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Clause 2 was added to the Bill.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That clause 3 stand part of the Bill."

**Mr. K. P. Thampan** (West Coast and Nilgris: Non-Muhammadan Rural): Sir, I beg to move:

"That in sub-clause (1) of clause 3 of the Bill, after the words 'Every notification issued' the words 'together with a full report of the inquiry' be inserted."

The object which is aimed at in this amendment is quite obvious. It is my desire that a complete report, containing the full data, on which the Government base their conclusions, should also be supplied to the Members of the Assembly to enable them to form their own opinions when the Member in charge of the Commerce Department brings forward a Resolution in the House for approval. A blank statement or a mere copy of the notification by itself will not be sufficient for us to form any definite opinion in the matter, and I, therefore, want to provide that all the materials in the possession of Government, on which they arrive at their conclusions, should be placed before the House. It is not a very difficult matter, nor do I think the Commerce Member can have any objection to accept this small but very useful amendment.

**The Honourable Sir Joseph Bhore:** Sir, the only reason why I oppose this amendment is, because I think it is unnecessary. As a matter of fact, in their own interests Government will endeavour to place their case in the most complete fashion before the House, in order to induce the House to accept their view of the case and I cannot imagine Government coming before this House and not giving the House the most complete and detailed information upon which they themselves have come to their conclusion. I think, in these circumstances, a Statutory provision, such as that my Honourable friend seeks to insert, is wholly unnecessary because in the normal course Government would do what is proposed that they should do. I oppose the amendment.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Government are giving an assurance that they will give the materials on which they arrive at their conclusions?

**The Honourable Sir Joseph Bhore:** I say it is almost inconceivable that Government would not place the fullest possible statement of their case before the Assembly to enable it to come to a conclusion.

**Mr. K. P. Thampan:** Sir, I beg leave of the House to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Clause 3 was added to the Bill.

Clause 4, clause 1, the Title and the Preamble were added to the Bill.

**The Honourable Sir Joseph Bhore:** Sir, I move that the Bill be passed. The motion was adopted.

## THE INDIAN TARIFF (AMENDMENT) BILL.

**The Honourable Sir Joseph Bhore** (Member for Commerce and Railways): Sir, I move:

"That the Bill further to amend the Indian Tariff Act, 1894, for a certain purpose be taken into consideration."

I regret, Sir, that I was not in a position to incorporate this very simple amendment in the Bill which was passed by this House a few days ago, but I was unable to do so for reasons which were absolutely unavoidable. To put the matter very briefly, I may explain that, in return for the very substantial preferences which we were given in the United Kingdom under the Supplementary Iron and Steel Agreement in respect of pig iron and half finished steel, we agreed to allow certain preferences to the United Kingdom. The preference with which we are concerned now is in respect of galvanised sheet. We agreed to allow British sheet rolled from Indian sheet bar a preferential rate of duty of Rs. 30 a ton. We agreed to allow British sheet rolled from other sheet bar a rate of Rs. 53 a ton, while other sheet was subject to a duty of Rs. 83 a ton. Now, Sir, it is not necessary for me to touch upon the other parts of the Agreement. The only relevant point in the Agreement, so far as we are concerned today, is the question of the preferential rate allowed to British sheet rolled from Indian sheet bar. At the time the Agreement was entered into, it was well understood by both parties that that preferential rate should only apply to Indian sheet bar imported into the United Kingdom after the date of the ratification of the Agreement by the Indian Legislature. We have, however, recently discovered that a very large quantity of Indian sheet bar was imported into the United Kingdom prior to the ratification of that Agreement. It was never the intention of either of the two parties to the Agreement that that sheet bar should be subject to this preferential rate and we are now making the position perfectly clear and removing a possible difficulty which might arise in the future. As I said we have heard that as much as 20 thousand tons of Indian sheet bar were imported into the United Kingdom prior to the Agreement and we want to make sure that this quantity does not receive the preferential treatment which is to be awarded to sheet rolled from Indian sheet bar imported after the date of the Agreement. The words which we propose to insert in sub-item (i) and sub-item (ii), namely, "imported into the United Kingdom after the 23rd day of December, 1932" will entirely remove the possibility of a preference being extended to articles to which we never intended that preference should be given. Sir, I move.

**Dr. Ziauddin Ahmad** (United Provinces Southern Divisions: Muhammadan Rural): At this late hour, I set a good example and I support this motion without a speech.

**Mr. Gaya Prasad Singh** (Muzaffarpur cum Champaran: Non-Muhammadan): Sir, I have great pleasure in supporting the motion of my Honourable friend. It appears that preference was given by mistake to some article to which it was not intended that preference should be given. As stated in the Statement of Objects and Reasons:

"The present wording of Item 148A of the Second Schedule of the Tariff Act extends the lowest preferential rate, i.e., Rs. 30 per ton on sheet of British manufacture rolled from Indian sheet bar, to a considerable quantity of material to which it was not intended that preference should be given."



[Mr Gaya Prasad Singh.]

The object of the Bill is to withdraw the preference so far as that item is concerned. Therefore, without making any further observations, I support this motion of my friend, and I hope that my example will be copied by other Honourable Members as well.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That the Bill further to amend the Indian Tariff Act, 1894, for a certain purpose, be taken into consideration."

The motion was adopted.

Clauses 2 and 1, the Title and the Preamble were added to the Bill.

**The Honourable Sir Joseph Bhoré**: Sir, I move that the Bill be passed.

The motion was adopted.

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#### THE INDIAN MEDICAL COUNCIL BILL—*contd.*

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The House will now resume consideration of the motion to refer the Indian Medical Council Bill to a Select Committee and also Mr. Maswood Ahmad's amendment that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st July, 1933.

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain** (Member for Education, Health and Lands): Sir, I feel very guilty indeed. This House has recently set us a wonderful example of working so expeditiously that I do not know what to do.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Copy their example. (Laughter.)

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain**: I would have striven hard, Sir, to follow the advice you have been pleased to give, but my trouble is that the last time when I spoke on the subject it was very nearly two months ago . . . . .

**An Honourable Member**: And we have forgotten all about it.

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain**: Yes, that is my trouble. I knew that at that time the Honourable Members were supplied with such a mass of material relating to this question—and the mass of material was reinforced with persistent visits to make sure that it was read—that it took two full days, and still the debate was not finished; and when I tried to place the case before the House, it was my good fortune to receive very encouraging and attentive hearing. Sir, I wish I could have finished what I had to say then, but now I cannot flatter myself that what I submitted then to the House is present to the minds of the Honourable Members now, and not only because of this long lapse of time, but also because what intervened between now and then consisted of

such startling and exciting and inciting incidents, that surely it would be unreasonable on my part to assume that I had better proceed just wherefrom I had left off. Therefore, Sir, knowing how late the hour is, knowing how near the time of separation is approaching (Hear, hear), I think I had better be content to give a bird's eye view of the situation before completing my observations on this measure.

Sir, after the Mover had made his speech, no less than 12 Honourable Members took part in the debate. They came from all parties and the speeches delivered showed how thoroughly the problem had been studied and mastered. The criticism was very largely directed to two or three points. One was the scope of the Bill. It was assumed by the Honourable Members that the scope of the Bill covered medical education at large, not necessarily the collegiate or the university education, but collegiate and school both. The second assumption made was that since it was a Medical Council Bill, therefore, it also concerned itself with the control of the profession of medicine and, as such, all medical men were under the jurisdiction of the Medical Council, and it was a necessary part of the Bill that it should provide what privileges these medical men ought to exercise, what rights they are to have and what obligations they are expected to discharge. Well, Sir, that was the criticism so far as the scope of the Bill is concerned. A great deal of criticism concerned itself with the desirability of having but one standard of medical education. Some Honourable Members felt that there was no sense in having higher education and lower education, school education and collegiate education: medical education is but one education, and, therefore, any measure that dealt with medical education must deal with it, in its entirety. After this aspect of the case was brought out, Honourable Members devoted a good deal of time to—how shall I put it?—leading a number of red herrings all about the floor of the House. The result was that no one knew where he was. Why has this Bill been produced? Because of the General Medical Council. Why is this Bill so rotten? Because we were afraid of the General Medical Council. Why are we hurried? Because of the General Medical Council. Why has it taken us so long to produce it? Because we were not able to satisfy the General Medical Council earlier. Whatever I did, I was doing because of the General Medical Council. That also enabled the Honourable Members to say some very nice and humorous things, but some very hard and unpleasant things as well. Still, in my answer I really do not intend to deal with them—it is too late to do so. Then a great deal was said about the composition of the Council, very rightly; about the President being elected or otherwise, about reciprocity, very properly; and about what were called the functions of the Board, the privileges that we hoped to confer. Sir, these matters which are covered by the provisions of the Bill ordinarily would be before the Select Committee, and I have no doubt that after such a full and complete discussion in the House, the Committee will feel that it has a great deal of material on which to work and to arrive at suitable decisions. But during the course of the debate the point was raised that when a Bill is committed to a Select Committee, what is called the principle of the Bill is adopted, conceded and recognized; therefore, when this Bill is going to the Select Committee, let us make quite sure what is the principle of the Bill which is being recognized and admitted, and, therefore, let us feel sure as to what is it that it will be open to the Select Committee to consider and decide. That was a very proper question to be mooted, and it is my duty

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to do my best to place before the House what I consider is the principle of the Bill and what are the points which I consider it will be open to the Select Committee to consider and express its opinions upon. I submit that the principle of the Bill in this case is necessarily limited by the scope of the Bill, and the scope of the Bill is to make provision for the maintenance of a uniform minimum standard of higher collegiate or university medical education, which means that it does not cover the instruction imparted for purposes other than the university education. In other words, the question of medical school education is not within the scope of the Bill. That is the first point. I am emphasising that point because that was the point around which the controversy raged a great deal and about which there was a great deal of confusion of ideas, if I may say so. That was the point on which, in the short time that was at my disposal when I spoke last, I tried to present, in the first instance, as much information as was available to me and, in the second place as many argument as appeared to me to have some force. Within the scope of the Bill, as I submitted, was the question that it deals with collegiate or university medical education. The second point is whether it is intended that that education be under the control of this Board, or what will be the functions of the Medical Council with respect to collegiate medical education? As I submitted, the intention is to see that a uniform minimum standard is maintained. It implies that those institutions which are imparting that education already will continue to impart that education as up till now and the Medical Council is, under the provisions of the Bill, intended only to appoint or nominate or select Inspectors who will inspect the colleges and the examinations and study the curricula with a view to seeing that the uniform minimum standard is being maintained. When these Inspectors have reported, their reports will be submitted to the Medical Council. This, Sir, is the main function of this organisation, and when I say "main", I may say that it is practically the entire function of this organisation. And what more is to be done by this organisation follows from this function rather than is in addition to the function that I have already stated. Those are the two matters which I think may be said to be the vital parts of the Bill, matters which, to my mind, constitute the scope as well as the principle of the Bill. There are certain things which some Honourable Members thought might have been included, but have not been included. A word of explanation is due to them from me. As to the privileges, obligations, and so on, I just want to remind the House that medical education and medical administration are both provincial and transferred subjects, at all events collegiate medical education is. The medical education is being conducted through the agency of colleges, which in their turn, are affiliated to universities possessing medical faculties. So, it is the colleges and the universities that do the instructional part of it. The clinical material is supplied by the hospitals attached to these medical colleges. Therefore, it would appear that the subject matter of the Bill is the concern of those who maintain and administer colleges and hospitals and not of others unless it be through them. It is for this reason that Local Governments figure to such a large extent in the scheme of this Bill or in the matter of the composition of this Bill. I have been asked why is your composition of the Medical Council so different from the composition of the Medical Council in England? Sir, as I said, this is a matter which is within the jurisdiction of the

Select Committee. It is open to the Select Committee to give such composition to the Council as it likes. I may say, however, why this Council has, comparatively speaking, a large element of nomination than the Medical Council in England. Colleges and hospitals in England are not Government institutions; mostly they are private institutions. Therefore, Government there does not come into the picture to the extent that it does in India. Again, not only are these colleges and hospitals in one case under a responsible Government, that is to say, under the Minister in charge of the Medical Department, but they are also on the educational side, too, under a University on which representatives of the public appear in two ways—by nomination as well as by election.

After the composition of the Council comes the question of the President. I do not think I need detain the House even for a moment on that point. That is a matter which would be within the jurisdiction obviously of the Select Committee.

After composition and the President, comes the question of reciprocity. I think I may safely say that that is a matter which is entirely within the discretion of the Select Committee and further that I personally and as a Member am in keen sympathy with the sentiments to which many Members sitting opposite gave expression. On that point we are at one, and there is no reason why in the Select Committee the Honourable Members of the Committee should not, after informing themselves of the *pros and cons* of the question, arrive at a decision which is just and fair to all concerned and also do justice to the Indian sentiment on the subject. Sir, one word more as to why there are not all these privileges, and so on. I find that in different provinces of India different rules prevail as to the privileges belonging to the medical men of different types and classes and it is but right that each province which has, so far as the Medical Department is concerned, a representative and responsible Government already and is bound to have a stronger representative and responsible Government in the future, should continue to control its own affairs. Autonomy of provinces would hardly be fairly treated if at the Centre we tried to lay down a law of what should be, as one of the Honourable Members suggested, the fee to be charged by different classes of medical men. One Honourable Member appealed to me to protect the people against the licentiates. I do not know that there was any very serious danger from that quarter. But in any case they have to look to the provinces and the Provincial Legislatures and the Provincial Ministers for such protection as may from time to time be needed by any section of the people.

Now, Sir, the question is why the scope of the Bill is restricted to collegiate education and why it does not cover school education as well. I remember, Sir, last time when I addressed the House on this subject, I explained that personally I had the greatest possible admiration for the class of medical men which has been described as licentiates, that I counted amongst them personal friends, that I was an admirer of a large number of them who had shown exceptional ability, that I had something to do in one province at least with raising their status and position and enabling them to move from their own class, the subordinate service, on to the provincial class, and so on; further, that I recognised that the licentiates dealt with a much larger Indian public than the one with which graduates deal; that on that score again licentiates constituted

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a very important section of medical men, and further in the scheme of things those who wanted to afford medical relief to the largest possible number of their countrymen had to look to licentiates rather than to graduates to achieve their object. But when some Honourable Member on *a priori* grounds proceeded to urge, "No two standards, only one standard in the country and that the best the country can afford", they were neither practical nor helpful. A great deal can be said as to the sanctity and value of human life; if a licentiate is not good enough, why should not every human being have the services of a graduate, and so on. But I will beg the House to look at the problem not entirely theoretically, not only in that spirit of idealism and logic, but in the spirit of practical men. For years and years up till 1921 the vast masses of Indians had no medical attendance of any description arranged for them by Government and it has been only during the last 12 or 13 years that medical relief of some sort has been provided in some provinces within ten miles or so of a villager's home. Therefore, what has been the result? In each province the number of men employed in the public service to give medical relief to the masses is at least ten times, if not more, carried out through men who have had school education and not collegiate education; and the cost of that education, in imparting the education and then in maintaining the institutions which give medical relief bears a proportion of something between one to three or one to four. Again, Sir, I am prepared to go so far as to urge upon the Members opposite who take the view of one class and that the best class, just to see that there are quite a number of ailments to which human flesh is heir which do not need any very high medical qualification to attend to, to give comfort to the person suffering from it and to give relief to him. To what extent can the country utilise an M.D. or an M.B.B.S. in a village for ordinary day to day complaints due either to overeating or eating something bad and things of that kind, or simple boils? What you really need is a network of medical institutions in charge of medical men, men with just sufficient qualifications to attend to these what I call day to day complaints. That is the function of the village rural dispensary. After that, you come to the *tahsils*, the units under which a large number of villages exist. You have there a hospital in charge of a graduate or an experienced sub-assistant surgeon. You pass on from this second unit to the third, the hospital at the headquarters of a district which is in charge of an Assistant Surgeon, an experienced man and a superior provincial service man. And lastly you have at the headquarters of the province the provincial hospital where you have the best experts you can get in everything. If you wanted to have graduates all through, the expense would be prohibitive. Therefore, Sir, it is open to those Honourable Members, who wanted to improve school education to the extent of raising it to the graduate standard, to attempt it. But may I point out that what they are doing is to improve the licentiate out of existence? So far as my Bill is concerned, it does not prevent their doing so, because as soon as he has attained that status, he becomes a graduate. There is no trouble; one standard in that particular case has been attained and all is well. But those who feel that the country needs two standards. I think in their case the alternatives are that the two standards should be maintained and, if necessary, arrangements should be made for maintaining a uniform minimum standard of education in both cases. Is this view that I have placed before the House my own view only or is it the view that I share with

others? I assure you, Sir, that there are very few who believe in but one standard only for India. Those, who did hold that view from amongst the Members of this House, I believe, since then have had occasion to study the problem and have arrived at the conclusion that it is really not a practical thing to have but one standard and that the degree standard. I may be asked, well, let there be two standards, why have you decided that there should be this inspection only with reference to the higher education, why not for the lower education as well? My reply, Sir, is this—since the medical instruction is a provincial subject, I have proceeded with reference to higher education for two reasons: firstly, because this was, as a matter of fact, the problem which came into prominence on account of the General Medical Council having raised this matter—that is the plain and simple truth—and secondly, the provinces have up till now agreed to this part of it, they have not yet agreed to the other part. Why should not they agree to the other part? There are a good many reasons why they should agree; for instance, the importance of the subject is one very good reason. The school education, as I said, concerns a larger number of medical men, and, therefore, necessarily it concerns a larger number of people of the provinces, but there are reasons on the other side. Those reasons are that it means more money. That is one thing. There is a second reason. I am not sure whether the minimum standard of instruction of school education is such that one may call it more or less uniform. I understand that the standard in Bengal does not stand very high, not as high as one used to associate with that great province's name. On the other hand, I understand that in Madras the standard is pretty high. It is for the provinces to say whether they would like this matter to be looked into, enquired and proceeded with. For this purpose I am ready to assure the House that I am quite ready to place my services at the disposal of the provinces to help them to proceed with this—I consider it a reform—if they are so inclined.

Now, Sir, just a few words more as to what is the view taken by medical men and Governments on this subject. As regards the licentiates themselves, as I said, they themselves are not agreed as to what they are aiming at. Some of them want one standard. They want their instruction to be improved till it is the same as the degree instruction. I am referring to a pamphlet called "Bulletin of the South Indian Medical Association". November, 1932, number. It says:

"The country and the profession are fod up with the existence of varying grades of medical men."

All these distinctions, they say, are unnecessary, eliminate them, we are all one brotherhood—a democratic view. Then we have here the view expressed in "The Proposed All-India Medical Council and All About It", a publication under the authority of the All-India Medical Licentiates Association. At page 9 of this pamphlet, the view is expressed that two classes of men are suppressing "the legitimate aspirations of the licentiates of India for equal rights and privileges and equal status and education". That is what they aim at. A little lower down they say that the time has come to have a uniform minimum standard of education in all the medical schools and colleges so that our standard should be elevated and we may all be in one and the same boat. Then we have, Sir, here the third authority of the All-India Medical Conference, 9th Session, Presidential Address by Major M. G. Naidu, that was in December, 1932. In the leaflet attached to that pamphlet are given what the

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licentiates want and there they put them under four heads:

- (1) that the licentiates be permitted to qualify for M. B. B. S.;
- (2) that the course of training be raised from 4 to 5 years;
- (3) that the standard of qualifications be levelled up so that licentiates may be eligible for recognition;
- (4) that licentiates be eligible for recruitment to Government Service on the same terms as the University graduates.

That was what I meant when I said that the expense will be considerably increased, and Major Naidu himself, during the course of his presidential address, has very definitely stated that what this country needs most is not graduates, as this country is not rich enough even for the licentiates, and he proposes a third standard of medical education to which men and women of the middle school education will be taken and given a year or so of instruction in preliminary matters, medical and good practical training. But here, what I wish to make clear is that men of very eminent position and status in the medical world feel that the country cannot bear one standard and that the degree standard. That is one side. On the other side, the licentiates feel that this is really opening their mouth too wide and that they are very important people, but that the country does need graduates and that they all cannot become graduates.

[At this stage Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) vacated the Chair which was occupied by Sir Hari Singh Gour.]

If they wanted to become graduates they ought to have proceeded to take their intermediate examination and joined the Medical College and that would have settled the question. In Madras, the Surgeon-General as well as the Minister said: "We are prepared to give you better instruction and to remove your complaints under that head. But please

do not run away with the idea that this will give you equality of status with the graduates. That it will not." And many licentiates realise that, and know the limits to which it is fair and reasonable for them to expect Government to go.

Those Members who want to go more deeply into the matter will find that the *Journal of the Indian Medical Association* edited by Sir Nil Ratan Sarkar, in its number of September, 1932, has a very good article by the Principal of the Medical School, Amritsar. It is at page 24 of that number, and there he discusses this question,—should there be two standards or one? He says, Sir Nil Ratan Sarkar at the same Conference went in his presidential address even a step further when he considered the advisability or necessity of having a grade of scientific education on western lines lower than that imparted to licentiates now. So, the view that I have mentioned of a third standard is not only the view held by Major Naidu, President of the last All-India Medical Conference, but also by Sir Nil Ratan Sarkar. In this article the whole subject is thoroughly thrashed out and I think it is established that licentiates are very good people; they are needed very much; but they cannot be converted into graduates unless it be through the University.

Lastly, the question is that licentiates themselves are not unaware of the fact that the reason why this Bill is limited to graduates' education is that the Local Governments want that to be done. I refer to the *Bombay Medical Journal* of April, 1932, under the heading "Reject the

Indian Medical Council Bill" by Dr. Dadachanji. Although he expressed, in the beginning, a strong condemnation of the Bill, he says while discussing the preamble of the Bill "Hullo, these people have made a change: they now want to deal only with higher education." "Another object of this preamble is, no doubt, to do what?—To placate the Provincial Governments which have resisted so far the demand of the licentiates to raise their standard of education and qualification to a reasonable minimum." So, Sir, it seems to me that my fate is such that I cannot do anything but placate somebody or other: either I must be placating the General Medical Council or I must be placating the Provincial Governments. Bad luck, I suppose. But any one, who is situated as I am, cannot but do what under the circumstances I am doing. Every one of us would like to be an autocrat or a dictator. But the present Government machinery unfortunately does not admit of it. (Interruption). It will, you think. Lucky will be the man who will assume dictatorship at the right time.

Just one more reference and that is, that if, as a matter of fact, I am limited in the scope of this Bill, is it not right that you should leave this matter over for me to deal with in communication with Local Governments? And, as I have assured the House already, I will do all I can.

In conclusion, the matter has been dealt with fully, and this Bill's scope is a limited one, dealing with collegiate education and very naturally and very properly . . . . .

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Something must be done for the licentiates.

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** As for licentiates. I assure you that we never at any stage of this case intended to cast any reflection on them. Since we met last, I have examined the matter in greater detail to see that even an indirect reflection may not be cast on them. As I have already submitted, this Bill deals really with inspection and consideration of the report as the result of that inspection. This register is not an integral part of it. As a matter of fact, registers of licentiates and medical graduates are kept in the provinces already and they will continue to be kept there. The only reason why the word "register" figures in my Bill is that it was intended that provincial registers of graduates should be transcribed and kept in one register at the headquarters . . . . .

**Mr. S. C. Mitra:** The same thing may be done for the licentiates.

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** I am coming to that. It is not essential that it be done. This matter will be before the Select Committee. If they feel that it is not necessary to have this all India edition of provincial registers, they need not have it. If, on the other hand, they feel that it is necessary, they can have it; and if they have it, then naturally it involves to a certain extent coming up of appeals from them or they may devise some method of giving finality to the appellate jurisdiction in the provinces. As regards licentiates, what can be done is to have a similar measure under which a licentiates' register can also be kept. My friends have made suggestions to me, why not put the licentiates in an appendix? Well, you see by shoving in other people surreptitiously into another class, you are not really doing business and you



[Sir Fazl-i-Husain.]

are really doing no good to any one; and is it right that we should, just because the children worry us a lot, give way to them and really spoil them? That is really what it amounts to. I want to do all that I can, but please be reasonable and tell me what within reason can be done. I do not think in your own calmer moments you will want me, in a medical register of graduates, to put in a note saying "there is an appendix of licentiates also added." It is just like a note in a university calendar saying "The graduates' list is given, but here are the undergraduates as well." It will not do. But as a second measure certainly I see no reason why if a register is considered of such very great importance, the licentiates should not have a measure like this of their own, and with their own register; and if the other school of thought prevails that we do not want a register, it will be open to the Select Committee to do away with it.

I am most grateful, Sir, to the House for extending to me the courtesy of listening to me at such length. My excuse was, not really the complicated nature of the subject, but the complications that our friends' persistent attempts at enlightening the minds of all of us created, and I trust that the House will forgive me for taking up so much of its time.

**Mr. K. O. Neogy** (Dacca Division: Non-Muhammadan Rural): Sir, may I offer my sincere sympathies to the Honourable gentleman who has just resumed his seat, in having had to wait for eight weeks to finish his speech? I do certainly realise what a strain it involves, but no one is more aware than the Honourable gentleman himself that the path of duty is beset with many difficulties. I recall the words that he used while presiding over the Simla Conference of 1930 which met to discuss this very question. The Honourable gentleman said: "We all must be prepared to take the necessary trouble to do our duty", and that admirable sentiment was expressed in connection with a somewhat disrespectful reference to the Punjab Legislature when the Honourable Member said: "Well, if you take these measures to the Legislature, then your real trouble begins, because I know how difficult it is to convince them sometimes on very simple matters". I felt greatly re-assured today when my friend said that he recognised that Honourable Members on this side had mastered the various problems connected with the particular question now under discussion. I do hope that my Honourable friend has a better opinion of this House than of the Punjab Legislature.

Now, Sir, I sympathise with him for another reason. I sympathise with him because this measure has come up for consideration in an atmosphere surcharged with suspicion. The Honourable Member with commendable frankness has stated the influence which the attitude of the General Medical Council had upon the course of action on the part of Government. We do recognise the frankness with which this point was dealt with also by my friend, Mr. Bajpai. But, I want to go back to the history of Constitution under which we are at the present moment discussing this measure, I mean the Devolution Rules which Honourable Members will find in Schedule I to the Government of India Act,—I am referring particularly to Devolution Rule No. 45,—which leaves the regulation of medical and other professional qualifications and standards subject to legislation by the Indian Legislature. I have a kind of an inconvenient memory sometimes, and I remember to have studied the history of this particular Devolution Rule 45 under which this House gets the opportunity of legislating upon a question of this character. My friend,

the Honourable Sir Fazl-i-Husain, was not a Member of the Government of India at the time, but I daresay he has read the Government of India's Despatch on the Montagu-Chelmsford reforms on this point. If I remind him about the history of this particular rule, perhaps he will pardon me. Sir, it will be in the recollection of Honourable Members that a Committee was appointed under the Chairmanship of Mr. Feetham, called the Functions Committee, and it was mainly on the recommendations of that Committee that the Schedule to the Devolution Rules was drawn up. I find that when the Feetham Committee Report was submitted,—and I may tell the House in passing that the particular Devolution Rule to which I am referring finds place almost in exact terms in the recommendations of the Feetham Committee,—when that recommendation of the Feetham Committee came up for consideration, the Government of India opposed the suggestion which has since been embodied in the Devolution Rules. Honourable Members will find the Government of India's opinion on this point set out in the 4th Despatch of the Government, dated the 16th April, 1919. The position that the Government of India took up at the time was that it was not safe to transfer the control of technical and medical education to Indian Ministers. The Government of India were full of distrust of the Indian Legislatures and of the Indian Ministers who would be in a way responsible to those Legislatures. I do not want to trouble the House with any quotations from the Government of India's Despatch, but it is interesting to observe that the Government of India laid such great stress upon control over technical and medical education that they went to the length of stating that "after the maintenance of law and order, there is no matter on which the responsibility of the British Government is heavier". Now, Sir, their recommendation was that the control of not merely medical but also legal, engineering and technical and industrial colleges and schools in India could not be entrusted to what they called inexperienced hands, and they pointed out that political influence might play a great part in regard to these various matters with disastrous effects on the efficiency of education in India. Now, Sir, this was the Government of India's criticism of the Feetham Committee's Report on this particular point.

Next we find Mr. Feetham accompanied by who was then Mr. Stephenson (now the Governor of Burma), supporting their original proposals before the Joint Parliamentary Committee. They were not prepared to go to the length that the Government of India wanted them to go, namely, to make the whole subject of medical education a reserved one, but then they, in their evidence before the Joint Parliamentary Committee, supported their original proposal which, practically represented a compromise between the extreme view of the Government of India and the view point that there should be absolutely no control on the part of the Central Government with regard to the standards of medical education. Honourable Members will find a very useful appendix to the Joint Parliamentary Committee's proceedings, an appendix in which Mr. Feetham, and Mr. Stephenson, as he then was, set forth their views on this point and supported their original proposals. It is very difficult for us to forget this little piece of history. The whole constitutional provision, as I said, in regard to this matter is conceived in a spirit of mistrust of Indians, of Indian Legislatures and of Indian Ministers. That is suspicion No. 1.

Now, Sir, the next suspicion arises out of the action of the General Medical Council with reference to our Medical Colleges. I need not go over the ground which has been so well covered, not merely by

[Mr. K. C. Neogy.]

Members on this side, but also by Honourable Members who have spoken on behalf of the Government. The General Medical Council, as a result of medical education being entrusted to Indian hands, insisted on having inquisitorial inspections in regard to the quality of medical education in this country, to which naturally strong objection was taken primarily by the Universities. Now, Sir, the Honourable Member knows perfectly well that so far as those Universities and those medical bodies who protested against the General Medical Council's decision in the matter was concerned, they had the heartiest support of non-official opinion in the country. They were and are still fighting in a sense for national honour, and I can assure my Honourable friend that in their fight they have the solid support of popular opinion in this country.

The next suspicious circumstance arises in connection with the procedure which the Government of India curiously followed in this matter in taking the trouble to obtain the previous sanction, as it were, of the General Medical Council to the draft Bill. Again, I must acknowledge with perfect frankness the action which the Government of India have taken in the matter in placing these very facts before us. They have not withheld any bit of information that is relevant to the consideration of this matter, and it is because they have so frankly placed before us the correspondence that passed between them and the Secretary of State in regard to this matter that we know what part the General Medical Council played in indirectly determining the general lines on which action should be taken.

The next suspicious circumstance is inherent in the Bill itself. One has only to go through the constitution which the Bill proposes for the Council, in order to be convinced of the fact that the Council is intended to be a predominantly official body dominated by the Indian Medical Service. I need not tell my Honourable friend as to what the Indian medical opinion is with regard to the present domination of the Indian Medical Service over the medical administration and medical education in this country. The Honourable Member is better aware of the state of feeling in the matter than any of us. The next suspicious circumstance arises out of the reference to this very Bill in the White Paper following upon a reference to it in the report of the Third Round Table Conference. I beg leave of the House just to read out the reference which the White Paper contains to this matter. It is in rather smaller type than the remainder of the report, but that is, I submit, no test of the importance of the reference itself. It is on page 59 of the White Paper. The White Paper, in this particular paragraph is dealing with the question of commercial discrimination and this is what follows as a sort of note to it:

"A question which will require separate consideration arises with regard to the registration in India of medical practitioners registered in the United Kingdom. A Bill which has an important bearing on this question is at present under consideration in the Indian Legislature."

Reading it carefully, it does not seem to me quite clear that once this Bill is passed, we shall have heard the last of this particular question. Whether we pass it or not, the matter will come up for separate consideration before the Joint Parliamentary Committee, and I submit that it will be entirely derogatory to this House to pass a measure, if our action has no finality in the matter and that something further may be done, as it will very probably be done, by our masters in England. Perhaps

they are waiting to see the shape in which this Bill finally emerges out of this Legislature and then it will be for the British Parliament to decide as to whether to incorporate another safeguard, a medical safeguard, in the next Constitution.

Sir, I think I have taken up sufficient time in dealing with a somewhat preliminary point. Now, the House must be very tired and I should not like to take any more time than I can absolutely help. The Honourable Sir Fazl-i-Husain has told us today that this particular Bill has a very limited scope. That is our quarrel. Why should it have such a limited scope? We are not the first Legislature in the world which is trying to set up a Medical Council by legislation, and what is the primary object with which Medical Councils have been set up in other countries of the world. One of the primary objects of a Medical Council any where in the world is to lay down and maintain a minimum standard of efficiency of the medical education in a country for the safeguarding of the interests of the public. Another very important object is the regulation of professional conduct. Is it very wrong on our part if we say that this Bill does not fulfil either of these two primary objects? The Honourable Member was persistent in saying today and on the last occasion that what is wanted is a uniform standard and he often inquired as to whether we want one standard or two standards. May I respectfully point out to him that the question is not of setting up one standard or two standards. The question is what should be the minimum standard, that is to say, what should be the minimum standard of qualification which must be satisfied by the medical practitioners of any country in order to enable them to enjoy certain privileges in practising their profession. That is the main object, at least one of the main objects of the Medical Council in any country of the world. I need not go very far for finding support of the proposition that the licentiate test does constitute that minimum standard which the public at large may safely accept for the purpose of guiding them in their choice of the medical men. My Honourable friend himself has paid very high tributes to the members of this particular section of medical men. He has said that he was instrumental in breaking down the caste barrier, as it were, that existed between this class and the next higher class, the provincial medical service, while he was a Minister in the Punjab. I may tell my Honourable friend that similar action was taken in Bengal sometime back, and I am told that similar is the position in the other provinces also. Now, therefore, we have the authority of an ex-Minister of the Punjab Government to say that there is no essential difference between the two classes of practitioners, that is to say, the difference is not so very great as to make the licentiates liable to be put into a different pen altogether for all time, but that selected members of this class can aspire to higher positions occupied by the graduates. My Honourable friend made a complaint against Sir Cowasji Jehangir the other day. He said, is it right for Members of this House to encourage licentiates in their ambitions to improve their position when the Honourable Members realize that finance may stand in the way of the consummation of that desire? Now, is it right for my Honourable friend, Sir Fazl-i-Husain, to break down that caste barrier, to pay encomiums in the language that he has done to that particular class and, at the same time, to deny them the right to cherish the ambition to be placed on a somewhat higher footing than they at the present moment occupy?

[Mr. K. C. Neogy.]

Now, I will come to another point. It will be said, as it has been said, that this Bill is primarily intended to standardize the higher medical education, that is to say, to set down, as has been said, the higher minimum standard. My knowledge of the English language is not sufficient to help me in judging as to whether the expression "higher minimum" does or does not do some amount of violence to King's English.

**Mr. O. O. Biswas** (Calcutta: Non-Muhammadian Urban): Minimum of higher education.

**Mr. K. C. Neogy**: Now, it has been said that standardization is necessary for its own sake in the first place, and in the second place it is necessary for the purpose of obtaining that so-called international status for our medical graduates that has been lost to them by reason of the action of the General Medical Council.

[At this stage Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) resumed the Chair.]

Now, I should like to know to what extent this standardization is wanted for its own sake. So far as I am concerned, I am not prepared to attach any very great importance to the other aspect of the necessity of having standardization, namely, for the sake of re-earning the "international status" which has been lost. Now I should like my Honourable friend to tell me what is the proportion of Indian medical graduates that will benefit by this reciprocity. I find that while presiding over the Conference of 1980, he hazarded a guess in this matter and said as follows:

"We are quarrelling with the General Medical Council in the interests of one per cent. of the graduates who are either going in for the Indian Medical Service or intend to practise in England or somewhere or want to be engaged in shipping, and so forth."

I will presently tell the House as to why I do not consider the Honourable Sir Fazl-i-Husain's statistics very reliable, but even if we accept this particular figure of one per cent, does the Honourable gentleman seriously mean to suggest that that is a sufficient inducement for this House to undertake legislation of this limited character in the teeth of the opposition from the medical opinion in the country?

Now, Sir, my Honourable friend said that Major Naidu, Sir Nil Ratan Sarkar and others think that there is room for a third class of medical graduates, a cheaper type of people who would undergo a much shorter training and who would be available in very large numbers in the rural areas for catering to the medical needs of the people at large. May I remind him that it is not merely Major Naidu or Sir Nil Ratan Sarkar who holds this view. In the year 1916, this was the view of the Government of India. In the year 1916, if the Honourable Member will refer to the debates of the then Imperial Legislative Council, he will find that a Resolution was moved by a non-official medical man, who was then a Member of the Imperial Legislative Council, asking for the establishment of institutions for training medical students in the vernacular for ordinary medical practice in rural areas. There is a wealth of information with regard to the history of the growth of the present class of licentiates in the speech of the Mover of that Resolution, but I do not want to trouble the House with those details. Now, this Resolution was supported by no

less an authority than General Sir Pardey Lukis, the then Director-General of the Indian Medical Service—a name which is equally honoured among the Indians as among the Britishers. (Hear, hear.) He said that he gave a great deal of support to this Resolution, but he made a condition that the standard of the existing schools should not be lowered, and we find that Sir Reginald Craddock, who was then a Member of the Government, formally accepted the Resolution on behalf of the Government of India. Four years later, a question was asked by Mr. Patel as to what action the Government had taken in the matter after having accepted that Resolution, and Sir William Vincent, who, I think, had succeeded Sir Reginald Craddock, said that the proposal had been abandoned as the Local Governments were opposed to it. He further said that the Government of India considered that the object would be more effectively secured by increasing the number of medical schools and by raising the pay of sub-assistant surgeons. I do not know how the object would be served by raising the pay of the sub-assistant surgeons.

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** And thus attracting more men.

**Mr. K. C. Neogy:** I thought one of the weighty arguments which my Honourable friend adduced against the contention of this side of the House in favour of the inclusion of licentiates was that, if you once agreed to raise the standard of licentiate education, it would mean increasing the cost of medical education and increasing the cost of medical relief to the poor people. And Sir William Vincent said that the object was going to be secured, not merely by increasing the number of schools, but also by raising the pay of sub-assistant surgeons. I may remind the House that not merely had a change taken place meanwhile in the personnel of the Home Member, but that Sir Pardey Lukis had also died. I do not know to what extent the change in the Government attitude is to be ascribed to that lamentable incident.

Now, Sir, this reminds me of another point. I have tried to study the question as best as I could according to the limited light within me, and I find that the Government of India and the Provincial Governments have been consistently following a policy of gradually levelling up the standard of education of the licentiates. If you begin the history from the year 1839, when the first Hindustani class, as it was called, was opened in the Calcutta Medical College, you will find that the policy of the Government was gradually to raise the standard of education of the licentiate class, and this is indirectly admitted by Sir William Vincent himself in the reply I have referred to.

Sir, is it very wrong on the part of this very worthy class of medical men to ask now for something more to be done for them? If the Government were to accept the proposal which was laid before them in the shape of that Resolution in 1916, and which has even now the support of eminent medical authorities like Sir Nil Ratan Sarkar, and if the Government were to bring into being a class of medical men between whose standard of education and the University standard there would be a vast difference, then there would be no grievance on the part of this lower class of people if the Honourable Member sought to discriminate between them and the graduates. The fact that the Government of India and the Provincial Governments have deliberately chosen a policy of steadily raising the standard of education of the licentiates has given them a good deal of encouragement to cherish

[Mr. K. C. Neogy.]

further ambitions. Is it any wonder, therefore, that when they find that for the first time by legislation we are going to discriminate against them, for whatsoever purpose it may be, that it causes great resentment amongst them? Sir, my Honourable friend in his speech on the last occasion insinuated that all this agitation on behalf of the licentiates, in so far as it is being voiced by the Medical Associations and the Medical Conferences, cannot be accepted at its face value. I do not know whether I am doing any injustice to my Honourable friend in putting that interpretation on what he said. What he said was: Here is a very large number of licentiates who form a preponderating majority to the extent perhaps of 30 to 1, and when they attend a Medical Conference, naturally they swamp the Conference and the graduate members of the Conference have no independence of opinion left to them in regard to this particular matter. I took the trouble of ascertaining the relative strength of graduates and licentiates that attended the last Conference, and I have the best authority to say that the ratio of graduates to licentiates at the last Medical Conference was about 4 to 1, that is to say, the graduates very largely preponderated over the licentiates.

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** Was the total attendance 500 or more?

**Mr. K. C. Neogy:** I am not in a position to give the number, but this is what I have got. If the Honourable Member desires, I can ascertain the number.

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** Not necessarily.

**Mr. K. C. Neogy:** Now, Sir, when the Honourable Member talks of the Associations being largely influenced by a preponderating proportion of the licentiates, I am afraid he is not also on a very safe ground there. I have got here the figures showing the distribution of membership of some of the leading Medical Associations in the country. The Calcutta Medical Club, for instance, has got 413 graduates on its roll of membership and only 116 licentiates. The Bengal Branch of the Indian Medical Association has 202 graduates and 45 licentiates. The Lahore Branch of the Indian Medical Association has 47 graduates and 8 licentiates. The Patna Medical Association has 53 graduates and 25 licentiates. The Lucknow Medical Association has 57 graduates and 23 licentiates. The Delhi Medical Association has 98 graduates and 11 licentiates. The reason for the lower proportion of the licentiates is not far to seek, because the licentiates do not generally practise in large numbers in the cities where these Associations are located. Therefore, my Honourable friend was not quite right when he drew the conclusion that, although these opinions come to us as purporting to proceed from the graduates as much as the licentiates, it is the voice of the licentiates that prevails in these Conferences and in these Associations and, therefore, these expressions of opinion ought to be taken with a pinch of salt.

Now, Sir, I do not think I will be justified in taking up any further time of this House. But I will just read out the expression of opinion of the Chief Medical Officer in Rajputana in regard to the point about the

licentiates. I find my Honourable friend, Diwan Bahadur Harbilas Sarda, is pricking his ears. Of course, Rajputana and, particularly, the Medical Officer in Rajputana, is not a quarter to which one generally looks for guidance in such matters, but here is a very pleasant surprise. This is what the Chief Medical Officer in Rajputana says:

"The Licentiates who supply the majority of the Sub-Assistant Surgeons and many of the Assistant Surgeons both Military and Civil are commonly accepted as medical practitioners throughout India and I cannot but feel that, as long as this class exists and is officially recognised as doing the work of medical practitioners their qualifications should be the minimum standard required for registration.

Whether later in order to attain reciprocity with other countries this minimum standard is raised is another matter. Definitely with the present Licentiate Standard as the minimum qualification for the India Register reciprocity could not be hoped for. The hopes of the graduates regaining rapidly such recognition as has been recently lost from their own standard falling below requirements would have to be postponed. This would however only affect a favoured few who seek the higher degrees obtainable elsewhere and I do not think the interests of these numerically few even if politically strong individuals should operate against the interests of a very large and very deserving class, many of whom in the actual practice of their profession are superior to the average graduate and who would be put at a disadvantage to them by not being registrable."

May I, in passing, refer to one particular case of a licentiate who is at the present moment occupying the position of a Professor of a Post-Graduate Institution in Calcutta, namely, the Calcutta Tropical School of Medicine, the professorship having been vacated by an I. M. S. officer? I want my Honourable friends to imagine the position of this gentleman, when all his pupils are post-graduate students of the Calcutta University, and he, as a licentiate, has been considered to be fit enough to be appointed permanently as a Professor of a Post-Graduate research institution. And this may not be the solitary instance of high distinction earned by members of this particular class.

Now, Sir, I come to another expression of opinion with which I will finish. This is from the Minister in charge of the Department in Bihar and Orissa. He puts the case so very well that I cannot resist the temptation of making one last quotation from him. He says:

"The strength of feeling amongst the medical profession on these points is such that the Bill will be wrecked and that it is inadvisable to proceed further with it now. While admitting that a British India Medical Council is required the Honourable Minister feels that the present is an inopportune time for attempting to create it; that public opinion at the moment is resentful of the influence of the Indian Medical Service and will not tolerate any legislation which provides for any appreciable degree of Government control over the medical profession. He fears that a Medical Council established on the lines proposed in the Bill will endeavour to impose on standards of medical education a uniformity which the differences between conditions in the various provinces make it impracticable to reach and that no independence less complete than that granted to the medical profession by the English Medical Act of 1886 is likely now to be acceptable. Moreover he does not consider that reciprocity between England and India is at present within the range of practical politics."

I could not have put the case any better. While I conclude, I express the hope that the Honourable Member in charge will yet take into account the strength of public feeling that has been aroused in the matter on the various points and judge for himself as to whether it is right for him to push this Bill through.

\* **Lieut.-Colonel Sir Henry Gidney** (Nominated Non-Official): Sir, unfortunately I have not had the advantage of being present in this House when

\* Speech not revised by the Honourable Member.



[Lieut.-Colonel Sir Henry Gidney.]

previous speakers spoke on this Bill, but I have tried to give it my closest attention and I had intended, Sir, to speak for three hours on this; but I am so intimidated on the matter that I hear that notices have been sent to the railway station that no trains will be delayed, and so I have to cut short my speech to accommodate the House.

Sir, there are certain aspects of this Bill which struck me as being the most important before I entered the House. After hearing the Honourable Member in charge of this Department, additional points have struck me which have almost overshadowed my original ideas, and I am left aghast as to what my views on such an important matter, as a medical man, ought to be. To my mind, medical questions, as a rule, are difficult things, and it is said that when doctors disagree, the undertaker generally settles the matter; but when we have medical politics, they are the very devil, and we bring it to this House and we have had these disruptive ideas which have left me absolutely in a quagmire as to what my decision would be on this matter. To my mind, Sir, there are three points emerging from this Bill which require our serious consideration.

The first is the education that is imparted in this country, which unfortunately is of two grades, in schools and colleges. On this point I think all protagonists agree that it is necessary to fuse these two standards, and to get one standard, which of course would be ideal. But that ideal can only be accomplished with a great expense of money and I am afraid the financial aspects of it to the provinces would not allow it. But we must not forget that ideal in whatever is going to happen in the future. The second point is standardisation, and the third point, which has emerged out of this Bill, is the question of reciprocity.

Now, Sir, we are presented with a Bill for our consideration which should more truly be called a Medical Reciprocity Bill than an Indian Medical Council Bill. After all, Sir, we may differ in our ideas as to what the medical needs of this country are. But talking as a medical man, who has occupied responsible appointments, I can assure this House that one of the curses of medical administration in this country is its compartmentism. The department of medicine in this country is the only one in the whole of the Government of India which is divided into compartments and such water-tight compartments that once a subordinate always a subordinate. You can never rise from the bottom to the top and no licentiate, who is a sub-assistant surgeon, as we call him, can become anything further. Even if he is an F. R. C. S., he may be called an Honorary Assistant Surgeon. Now, Sir, it is a curse of this profession, this compartmentism, and I do believe that if this Medical Council Bill is to do any good to this country, it must kill that compartmentism. I submit with all respect that the framers of this Bill, which I consider not only to be controversial, but very adroitly drafted and also a very complicated piece of legislation, I consider that this Bill is perpetuating that compartmentism, and I for one holding those views cannot give my consent to any Bill that perpetuates compartmentism in this highly scientific profession in this country. Apart from that, Sir, we have to consider what

Mr. Neogy so ably pointed out, and that was, what is the purport of this Bill? Is the purport of this Bill to separate licentiates from graduates? If it is, then the Bill need not be presented with all the paraphernalia of a Council. If the purport of this Bill is to introduce in the Legislature a body that is going to be recognised by the British Medical Council or by the Councils as they operate in the various parts of the United Kingdom, then let it be said so openly and frankly. But I submit, Sir, that it would be wrong if we were here to limit the functions of this Bill mainly to what has been called today higher education and which was an altered Preamble to the original Bill. I can see now the reason for the alteration of this Preamble. I can see the reasons very clearly, but I can conceive also a possibility of avoiding this and I would suggest this to the Honourable Member. If you are going to improve medical education in this country, the time has now come to do it. In 1922, Sir, I moved on the floor of this House a Resolution which, for want of a better name, I called a Medical Swaraj Resolution. This is the Resolution I moved:

5 P.M. "This Assembly recommends to the Governor General in Council that he be pleased to appoint a Committee of professional experts, half to be obtained from the United Kingdom in consultation with the General Medical Council and the other half from India, to tour India and to inquire into the training that is obtained in the various Medical and Surgical institutions, both official and non-official, and to submit recommendation with a view to bringing the Indian institutions, in all respects on a level with those of the United Kingdom and thereby creating in India a suitable field of recruitment for its entire Medical Service."

Sir, that Resolution was rejected by this House. In my reply to the Honourable Member I said that the time was not far when this very Resolution would be moved in this House again. I now hear voices on the other side of the Opposition supporting what I said then. I put it to the Honourable Member for his acceptance that if you are desirous, as I know you are, to improve the standard of medical education in India, and I for one am not in favour of lowering the standard by introducing a third class, if you are desirous of improving the standard of education, if in this Act you want to bring in a standard, a Register, if in this Act you want to satisfy the medical profession of this country and if this Act is brought into this House in response to any demand from medical education in this country, let there be one Register and one Register only and on that Register let there be graduates and licentiates together. I will tell you that there are many reasons for that. I will develop the reasons, now, Sir. I would like to inform this House when we enter into details of comparisons between graduate education and school education, one is not to forget this very important fact that in my own time a number of graduates, who qualified for 20 or 25 years, passed an examination inferior to what a licentiate passes to day. Bacteriology and epidemiology was not known practically in those days. It was scarcely known when I passed my examination. Today it forms a very important part of the examination of the licentiates. Why should I, because I graduated, with no knowledge of what they have, 30 or 40 years ago, be taken in today and a licentiate, who has better knowledge be shut out? That is one of the reasons that is put forward, but that is not the main reason. My main reason is this, that you do not want to separate the goat from the sheep and that you want to keep one standard and one Register. Well, having accomplished that, I would ask the Honourable Member, if he would be agreeable to have a separate list of those members

[Lieut.-Colonel Sir Henry Gidney.]

of the profession in this country whom this Council considers suitable for purposes of reciprocity with Great Britain or any other part of the Empire, so far as reciprocal matters are concerned? It is obvious to everybody that a licentiate will not be received by the Medical Council. We all know that the General Medical Council will not accept any training or any examination that does not come up to its standard. We also know that the General Medical Council demands that they must inspect those standards. We have refused that inspection. We are there at a deadlock. May I suggest to the Honourable Member, try a little Round Table Conference method? Could he suggest a few members of the profession going to England to study this question, the same as Ceylon and Egypt did to their advantage? Today we are at a deadlock with England. The General Medical Council certainly does not enter this field in the fundamental way that many people think it does. It is only when we want to demand reciprocity that the General Medical Council comes into it and, taking the Bill, as it is, and taking what the Honourable Member in charge of the Department states should be its limitations, I, for one, Sir, was aghast at the limitations that he has placed on it. He has said that this limitation is meant only to refer to college and University examination. He states that you cannot take any licentiates, and, he brings in his reason that medicine being a provincial transferred subject, it would not be right for the Government of India to interfere with that. Now, Sir, if it is not right for the Government of India to interfere with licentiate education, is it right for the Government of India, with the concurrence of the Provinces, to interfere with the collegiate and University education? I agree with Mr. Neogy when he pointed out that the Devolution Rules do give the Government of India power for standardisation of examination, and I see no reason whatever why the Honourable Member should not allow this matter to be discussed in the Select Committee, so that we could get at least one standard to apply to all medical men in this country, (*Several Honourable Members*: "No, no"), and not to separate them. You may say "No, no", that is your opinion, it is not mine.

Now, Sir, whom are we passing this Bill for? Has this Bill been drafted and is it to be passed for the benefit of the Government of India? Is it to be passed for the benefit of the British Medical Council? Is it to be passed for the benefit of the graduates in this country? Is it to be passed for the benefits of the licentiates? It is being passed for the benefit of the public and it is on that that the General Medical Council has been framed. Now, if you pass it for the benefit of the public, I ask this House, why are the Government of India so keen on eliminating licentiates when the graduates want licentiates to be included. Now, if the graduates did not want it, I can understand the Government of India saying that the graduates oppose it and they must, therefore, for just a few thousand graduates eliminate the licentiates. But the graduates, especially the report of the last Indian Medical Council Association held in February this year, states that it is the opinion of the Indian Medical Council that licentiates should be included in this legislation and I cannot understand the Honourable Member's refusal to accept one standard both for licentiates and for graduates, having, as I suggested just now, a list of reciprocal graduates with whom reciprocity can be entered into with other countries. Sir, I have very few remarks to make in addition to what I have said.

Sir, I would in conclusion bring to the serious notice of the Honourable Members, why introduce a Bill of such a contentious and controversial nature in this atmosphere of mistrust? If the Government of India are going to operate this Bill in the Provinces, they must do it with the goodwill and trust of the medical profession. If the medical profession is desirous of having this one Register, why Government should say "No, we will have two"? If the licentiates say that they want to improve their standard, why should Government say it is not their concern? Sir, surely it is the concern of the Central Legislature to improve the standards of education of India and surely if the medical profession almost unanimously want to have one Register for licentiates and graduates, is it the duty of Government to oppose it? Rather let us go into the Select Committee with some trust, some hope that this Committee will evolve a Bill which would satisfy both licentiates and graduates, leaving aside reciprocity to be dealt with as the Bill wants and which, after all, is an absolute myth. Reciprocity in this Bill is a myth, because it does not exist until and unless the country with whom you wish to enter into an agreement consents to your standards and accepts reciprocity. With all my respect to the Honourable Member and with my admiration for his desire to have India progressing on the line of medical education. I submit that the time has come for a forward step, not for a backward step, by the introduction of a third system. It is not the time for us to go back: it is time for us to have a unanimous minimum standard of education and have our own registers for the benefit of India and not for the benefit of anybody else. If we wish to enter into any reciprocity with other countries, let it be done in another manner; but if this Bill is to be the Indian Medical Council Bill, it has to satisfy the needs of the Indian medical profession in this country and not only of graduates.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): If the House would prefer to continue the discussion after Dinner, the Chair would have no objection.

**Honourable Members:** Yes, yes.

The Assembly then adjourned for Dinner till Nine of the Clock.

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The Assembly re-assembled after Dinner at Nine of the Clock, Mr. President (The Honourable Mr. R. K. Shanmukham Chetty) in the Chair.

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**Mr. Muhammad Yamin Khan** (Agra Division: Muhammadan Rural): Sir, there are very few people in the House who have not got a high regard for the licentiates. We all, practically every Non-Official Member, have been under the treatment of licentiates at some time or other. In my younger days, I remember to have seen some licentiates who were much better than many graduates in medicine. Their experience, their tact and their skill in diagnosing diseases were remarkable, and I think, Sir, it is not the education that makes a man a good doctor, but it is God's gift which really makes a man a good doctor. A man may be very well educated in medicine, but he will not certainly be able to compete with

[Mr. Muhammad Yamin Khan.]

a man who has been gifted with special skill by Providence. I have found that some licentiates have got far greater practice than most of the medical graduates holding high degrees.

**An Honourable Member:** They may be exceptions.

**Mr. Muhammad Yamin Khan:** Yes, as my friend points out, these are exceptional cases. If the same licentiate, who has got all the tact and skill, had received good education in the University, he would perhaps have been a far better man than as a licentiate. At present a licentiate has to undergo training for four years, whereas a medical graduate has to undergo training for five years, but a graduate, before he enters the medical college, has to pass the F.Sc., which means some extra general education for two or four years.

Formerly, we had in India only one system, and it was thought that a lot of people of high families, who had nothing else to do, used to learn medicine as it was considered as an accomplishment for a man, and a man's education was not considered to have been complete unless he acquired a good knowledge in medicine. In those days there were a lot of *hakims* in the country and they used to distribute medicine free of charge to the poor people. In small towns also, there used to be *hakims* who gave medicines free to the poor people. There are many families even now who have kept up their medical practice for generations. To give an idea as to how the villages have got faith in these *hakims*, I shall just give an incident. My uncle used to be a good *hakim*. He had a reputation even outside our own province, and some people not knowing that he was dead came for treatment to our house. At that time I had some clients sitting with me. This man naturally thought that I was the physician and the people sitting with me were my patients. When the man came to me, he thought that I was distributing medicines, whereas I was giving them legal advice and not medicine which he expected from me. He asked me about my uncle. I said that he died only two months ago. Then he asked me as to who was going to give him medicine. I said that I did not know medicine and asked him to go to the hospital. He again insisted on me to give him some medicine in spite of my telling him that I did not know even a bit of medicine. Still he went on persuading me to give him something, because he would not believe my statement that I did not know a bit of medicine. He said: "Oh, your uncle knew so much medicine, and how is it that you do not know; it is impossible". What I am pointing out to the House is that the faith of the people in *hakims* was so much that they would not believe if a descendant of the *hakim's* family said that he did not know medicine. The general opinion is that every profession is carried on by a family from generation to generation. That class is unfortunately vanishing. We have got very few *hakims* left in small towns and in the villages who would distribute medicine as charity. Their places have been taken up by licentiates. During the last 20 years, several hospitals have been opened in small towns and in the villages where the poor people receive treatment free of charge. As we all know, 80 per cent. of our population is living in villages and they require some kind of treatment when they are ill. These poor people cannot be ignored altogether, and it is next to impossible for a graduate, who has spent so much time and money in taking a

medical degree, to go to these small villages and towns and settle down there to give free treatment to these poor people. A graduate cannot afford to live without earning some money, and so they have to live in big towns like Delhi, etc. Therefore, these licentiates have necessarily a place in the villages as their charges are low which people can afford to pay. Their education in schools takes about four years and, as has been pointed out by the Honourable Member in charge of this Bill, I calculated myself that education in the University, that is ordinary education *plus* this medical education, would cost about three times as much as it would cost in the case of the licentiate. Some poor people cannot afford to do it. It is very good to say that the graduates and the licentiates should be brought up under one register. I can quite understand it, but will it be possible to bring them in the same register? One education is controlled by the Local Governments and unless all the different Local Governments come and join together and have the same standard, and unless they agree to put down the same standard, it will not be possible to have one register, and until that object is gained, I do not see why should there be any impediment in the way of graduates. I think these matters can be gone into thoroughly and discussed in the Select Committee and these matters cannot be discussed on the floor of the House. They can be discussed better across the table. People can be convinced better in the Select Committee. Here people give expression to their views, but in the Select Committee, there is more freedom and people can see eye to eye with each other. I think this question of what steps should be taken to improve the status of the licentiates should be left over to the Select Committee.

I think, Sir, there are two or three cases which require careful consideration. One is about the Medical Council. It has been rightly said that the question of the nominated President is one that requires careful consideration—whether there should be a nominated or an elected President. All the pros and cons of this question can be gone into in the Select Committee. I do not want to take the time of the House too much. I know there are some friends who want to sit till day-break. I think, Sir, without going into the merits or the details of this measure, this motion for Select Committee should be supported.

**Mr. K. P. Thampan** (West Coast and Nilgiris: Non-Muhammadan Rural): Mr. President, I should first of all congratulate you on the novel departure you have made in making this House sit in the night after dinner. It is, perhaps, because we have a vigorous young man like you in the Chair. It is our sincere wish that you may long occupy that Chair and establish many such healthy and good traditions.

Now, Sir, I should like to offer a few observations on this Bill with your indulgence. I would like, however, at the outset, to make my position very clear. I am only a layman and I am only anxious that we should have an efficient medical service in this country. Other things are not my concern. I find from the literature supplied to us that the object of this Bill is to ensure a uniform minimum standard of higher medical education in this country. That seems to be the chief object of this measure and I for one, layman as I am, do not understand why we should have a medical register for it. I venture to suggest that it is more than sufficient if you have an Inspection Board for that purpose. The Government of India may constitute an efficient Inspection Board even as we have Inspectors of Colleges appointed by the Universities in the

[Mr. K. P. Thampan.]

provinces. I do not understand why for that purpose a medical register should be kept both in the provinces and in the Centre. If that is agreed to be not necessary, then we can get over most of the troubles. Already in the provinces we have got a register of medical men. There we have both doctors with University qualifications as well as licentiates. My own opinion is that either in the interests of the medical men themselves or the public at large, it is absolutely unnecessary to have two registers. Where is the necessity, for instance, for a medical practitioner in Malabar to enter his name in the central register? Why does he want it? He may never care to practice in any other province, much less in a foreign country. Why should one pay one's fee for getting enrolled in the central medical register simply for the sake of the status it gives? It does not give any additional privilege. The proposal to keep these two registers is sure to create bad blood among the doctors themselves and, as long as the provinces insist on keeping their own registers, it will more than serve the purpose and there is no justification for this duplication.

The question of University graduates *versus* the L.M.Ps. is indeed a very complicated one. Comparisons are always odious. Coming from Madras, Sir, you must have known many medical practitioners there who are not University graduates, such as M.B.B.Sc.'s or M.D.'s but very distinguished in their line, we have got a great specialist for the treatment of asthma in Madras; he is not a University graduate in medicine. Similarly, in Malabar, we have got an L.M.P. who is a specialist in the treatment of piles. Sir, it very often happens that these L.M.P.'s make very good researches, and many of them command a greater reputation and confidence among patients than M.B., B.S.'s. In the matter of practice also, I know one L.M.P. who used to make at least three thousand rupees a month and I may say at the same time that I know an M.D. in Malabar who does not make in practice the amount of income which the Honourable the Finance Member has recently treated as the lowest to be taxed, *viz.*, Rs. 1,000 a year. Sir, if you examine the income-tax registers, you will find what miserable failures some of these M.B., B.S.'s are. Their abilities or efficiency as doctors are not dependent upon their academical qualifications, and that is also my own experience. I myself have a family doctor who is an L.M.P., and I may say that, without getting his approval, I would not care to accept the advice or use the prescription of even an M.D. The L.M.P. cannot be ignored and if a register has to be maintained, do find room for them also.

Sir, as regards the provision for the constitution of the Council, my own opinion is that if you are anxious to have this Council, you must certainly liberalise it and make it more non-official in character. Of course, so long as you want the provinces to maintain their Boards, it is absolutely necessary to have representatives of these provinces on the Central Council, but it is also absolutely necessary to widen the franchise of the non-officials and maintain a non-official majority: you must give representation for the medical practitioners in the provinces, and so far as the Universities are concerned, the election must be from medical graduates and not from the academic Councils. The number of Government nominations should be reduced as far as possible. In other words, the non-official element must predominate in the constitution of the Board.

The other controversial matter is the question of reciprocity. I have not much to say on that. I am very anxious that nothing that is to be

derogatory to the national prestige should be done. The Honourable Member in charge of the Department of Education, Health and Lands has the reputation of being a very patriotic Indian, and, Sir, no less a man than your and my Leader, the late Raja of Panagal, told me that Sir Fazl-i-Husain was one of those Indians whose sense of patriotism and national dignity was not a whit less than that of anybody else. Sir, I am confident that he will vindicate himself fully on this question. That is all, Sir, I wish to say.

**Mr. S. C. Mitra:** Mr. President, at this stage of the Bill we are merely asked to refer the matter to a Select Committee, so I think we are not called upon to go into the details of the clauses, but to examine the Bill from the general standpoint in order to see if we can accept its principles. Sir, the name of the Bill is very attractive: It is "A Bill to establish a Medical Council in India and to provide for the maintenance of a British Indian Medical Register". The first part of the name, "to establish a Medical Council" will induce any Indian to support a measure like this, but in accepting this motion for reference to a Select Committee, we will be committing ourselves to the principle of this Bill. I thought that the principle of this Bill is not restricted only to some minimum standard for the medical graduates and that it comprised the wider question about having a minimum standard which should be recognized throughout the whole of India. But the Honourable Member in charge has explained that he considers that the principle of this Bill is so very restricted that we will be debarred in the Select Committee from raising any question about the inclusion of the licentiates. From that narrow standpoint, it is very difficult for us to support a measure like this. The name alone will not satisfy anybody. Sir, it is not the medical profession that demanded a measure like this, nor is it public opinion in India that required any such legislation. Later on I shall discuss the question whether it is necessary to enact a Statute only from the point of view of reciprocity, and if that is so, I think it would have been far better for the Honourable Member in charge to tell this House that "We in India are a subservient Government; we are to abide by the dictates of the British Medical Council; so, attracting you by such a big name, we really want a Board through which we would like to negotiate the question of reciprocity". Even from that narrow standpoint of reciprocity, I do not think there is any necessity for such a Bill. There are the Provincial Medical Boards in every province and, so far as I know, in the Dominions, in Canada and in Australia, the provinces are allowed to deal directly on this question of reciprocity with the British Medical Council.

The high-sounding principle about international recognition is also a farce, because, so far as I understand, by internationalism is meant only Italy and Japan and no other country, in this matter of reciprocity. I for one believe that it may be left to the autonomous provinces of the future to settle the terms of reciprocity. Why not have a Board like the inter-University Board and settle this question even for the whole of India?

If only for the purposes of utility, the Honourable Member in charge of this Bill should appreciate the point that it is only with the co-operation of the medical profession that the purposes of his Bill can be fulfilled. Though my Honourable friend has given a great name and a pompous description to this Bill, really no privilege, no right is being bestowed on



[Mr. S. C. Mitra.]

the medical profession, the members of which will be invited to enlist themselves under this Bill. If the medical profession make it a point to non-co-operate with the Government on this matter, because they will not lose any very substantial right, I know ultimately the whole thing will prove a fiasco. So, from all considerations, I think, the Honourable Member should see how he can enlist the sympathy of the medical profession. I know that in this matter, apart from the Government and the medical profession, there is also the third party, namely, the general public. But there was no demand whatever from the general public for any such legislation. If there is any, I hope I shall be corrected. The Honourable Mr. Neogy has made it quite clear that the whole medical profession demanded the inclusion of the licentiates. One can easily understand that there may be a Medical Council for the whole of India and it should be asked to set a minimum standard. Any man, who satisfied that standard, should have the right to practise in any part of India. For that purpose it may be necessary to engage Inspectors or other bodies to see for themselves if the Universities are keeping up to that standard. Apart from this, the public may demand that there should be some register by consulting which they can be convinced that these are the persons throughout India who are qualified doctors. Now, Sir, the Honourable Sir Fazl-i-Husain speaks highly of the competence and qualifications of these licentiates, but when the question arises as to why they should not be included in the register as qualified physicians, he is determined to give them no place in it. So far as I have seen, every Medical Association in India has protested and very strongly protested against the exclusion of the licentiates. They did not want any division amongst themselves. As member after member has already testified to the high standard of efficiency of these licentiates, it does not lie with anybody to deny that they are an inferior set and are not competent to be classed as fully qualified doctors. My friend, Mr. Ranga Iyer, says that they are the depressed class in the medical profession. I do not think he really believes that there can be any depressed class and, least of all, the licentiates, who are held in great esteem by all classes of people, cannot certainly be classed as unqualified. However, when my friend himself is anxious to raise the depressed classes to the general standard, I think he will not agree to make a discrimination against these licentiates. Sir, I would like to know for certain whether it is the views of the Honourable Member which will prevail with the Chairman of the Select Committee in ruling out any question about the inclusion of the licentiates in the Select Committee. I can decide my attitude about this Bill on the decision of that question, because I know it is strongly held both amongst the medical profession and amongst the public at large that without the licentiates in the medical register the whole thing is a mere farce. It may be necessary to satisfy our overlords at Whitehall to pass something to please them. If that is necessary, let them do it under any other name, but not under this pompous name of Medical Council. They are not giving any powers or privileges, but are only demanding some fees from the medical profession and wasting Rs. 80,000 of public money in order merely to satisfy some mandate from London. There are other smaller difficulties also. So far as I know, in the province of Bengal the degrees of the Mysore University are recognised by the Provincial Medical Board. There is the similar claim, I understand, from the Osmania University where they had already started or are going to start a medical faculty. Under this constitution,

what will be done in these particular cases, I do not know. The Honourable Member in charge says that that is a provincial transferred subject. If that is so, why should he trouble his brain for advising the autonomous provinces who will resent interference from the Central Government in future as regards the course they should adopt. Besides, there is precedence in other Dominions as regards recognition. I understand that this recognition by the Medical Council only affects appointment and not practice. Any Indian having Indian degrees can practise in India or England, but what he is not allowed to do is that he cannot hold any appointment and he cannot issue some kinds of certificates. As has been very clearly explained by my friend, Mr. Neogy, not even .05 per cent (the Honourable Member in charge said .1 per cent) of the people will be affected if we fail to get recognition from the British Medical Council. My friend, Dr. Ziauddin, who is a great authority on all questions relating to different branches of education, says that those who go to England for their studies will feel some difficulty, but I think my friend will support me when I say that the best medical institutions are not a monopoly of British Isles. We all know that the best physicians are now available in Austria and in Germany and not so much in Great Britain. So, even from that standpoint, the Indians will not suffer very much. On all these considerations and without going into the merits of the clauses themselves, unless we have an assurance that the question of licentiates will be an open question, I think this House will be ill-advised to accept this motion. As regards the clauses themselves, they are capable of great alterations and improvements without which I know the House will totally reject this Bill at its final hearing. But as regards those particular points in the clauses, I think there will be no difficulty to make them acceptable to the House by making necessary alterations in them. Some remarks have been made about the nomination of the President and the constitution of the governing bodies and there are many other details in which it is capable of improvement. But if the acceptance of the motion to refer the Bill to the Select Committee means that the question of the licentiates will be sealed once for all, then I very strongly oppose its reference to the Select Committee.

**Several Honourable Members:** The question may now be put.

**Mr. Gaya Prasad Singh** (Muzaffarpur *cum* Champaran: Non-Muhamadan): Sir, by supporting the reference of this Bill to the Select Committee, as I do now, it might be said that I have accepted the principle of the Bill, and that I shall be precluded from raising objections to certain features of this Bill later on. It is, therefore, necessary to find out what is the principle of the Bill. The main principle of the Bill, as I recognise it, is to constitute a Medical Council for India, autonomous in its constitution, independent of outside control, and performing the same functions which similar bodies perform in other civilised countries of the world. This, I recognise, is the main principle of the Bill, and it is with reference to this principle that I support the motion for the Select Committee. The Bill has been subjected to diverse criticism from different points of view. It has been said that the Bill is premature at the present time, that we should have waited to find out the nature of the coming reforms, and that the attitude which the provinces will take under the scheme of provincial autonomy should have been clearly ascertained. What would be the position of the All-India Medical Council? Now, under the Federal Governments of Australia and Canada, each constituent province regulates its own medical faculty and medical policy. Then there

[Mr. Gaya Prasad Singh.]

is the position of the Indian States. These are questions which, it is argued, ought to have been tackled before we put this Bill on the Statute-book. I will not enter into the validity or otherwise of these criticisms. I am merely attempting to indicate in broad outline some of the objectionable features of the Bill leaving the details to be considered at later stages of this measure.

Now, Sir, the first thing that strikes me is that the composition of the proposed Medical Council is predominantly official. In England, I understand, 45 members are elected, and only five are nominated by the Privy Council as representing the Government's interest. The second point is that the President is nominated, whereas he should have been elected. This is the opinion of many of the authorities as contained in the papers which have been supplied to us. Now, Sir, I do not want to tire the patience of the House by reading out all the quotations in support of my contention. I will, however, refer to the opinion of the High Court of Lahore which is given on page 27 of these papers. The Honourable Messrs. Justices Jai Lal, Bhide and Hilton agree with the note of Mr. Justice Agha Haidar, and the opinion of Justice Agha Haidar is this:

"I fail to see why the President should be nominated by the Governor General in Council and why the various Local Governments of Governors' provinces should nominate any members to the Council and why the Governor General in Council should again nominate three members."

The United Provinces Government also have referred to this question, and this is what I find on page 53:

"The United Provinces Government have throughout been in favour of an elected rather than of a nominated President as likely to occupy a higher status in the public eye and give a greater sense of independence to the proposed Medical Council."

The Central Provinces Government also are of the same opinion, while the opinion of the Madras Government as given at page 117 is as follows:

"Excepting the Madras Medical Council no other association or individual consulted by this Government is in favour of the suggestion that the President of the Council should be nominated by the Governor General in Council perpetually; while in some quarters the opinion is expressed that the President should be elected even in the first instance. The consensus of opinion seems to favour the recommendation of the Conference embodied in sub-clause (2) of clause 3A of the Bill with the proviso thereunder. This Government have after careful consideration agreed to the above provision of the Bill."

I understand, Sir, that the first Medical Council which was formed in England about the year 1858 had the right to elect its own President.

My third objection is the exclusion of the licentiates. The licentiates were not excluded in the first Bill which was circulated to the Local Governments for opinion.

**Mr. M. Maswood Ahmad** (Patna and Chota Nagpur *cum* Orissa: Muhammadan): That cannot be discussed in the Select Committee. It has been said by the Honourable Member just now.

**Mr. Gaya Prasad Singh:** If this is so, I should like to know from my Honourable friend, the Official representative, as to why licentiates who had been included in the first draft have been excluded in the subsequent draft. The Government of Madras at least have supported the

inclusion of licentiates in the Medical Register. At page 118 this is what they say:

"After discussing the question (*which is no doubt difficult*) with the Surgeon General this Government have decided to suggest for the consideration of the Government of India the inclusion of the licentiates, other diploma holders and the holders of University degrees like L. M. & S. which are not recognised by the General Medical Council of Great Britain" etc.

Sir, the licentiates are a very useful body of the medical profession, and they minister to the needs and well-being of a large number of persons, specially living in far-off villages. Their utility has been recognised in many quarters, and it is rather unfortunate that their position in the proposed Medical Council is sought to be excluded. His Excellency Lord Chelmsford, when he was Viceroy of India, made a speech on the 27th December, 1920, in which he stated as follows regarding the licentiates:

"Ever since I have been in India, I have been hearing of the good, though unobtrusive work done by the licentiates. Though your cadre consists of the largest number of medical men in India the value of your services to your country and fellow-countrymen is not as widely known as it ought to be. Your work lies largely in remote parts of this vast country and is performed chiefly among the voiceless masses, and it is no doubt chiefly for this reason that the high character of your services is principally known only to those among whom you work and to your immediate superiors. But those in authority, you may rest assured, are in no way unmindful of what the administration and the country owe to you. I cannot think of any report of plague, famine or any other epidemic which I have read without coming on reference to the good work done by the licentiate class and your praises are continually sung by those responsible for the medical administration of the country. During the great war you volunteered in large numbers and acquitted yourselves always with credit and often with distinction."

Sir, my information is that the licentiates of England can continue to obtain appointments and practice in India whereas our licentiates are excluded from similar privileges in Great Britain. Another objection is that this Bill does not give effect to the principle of reciprocity. British medical qualifications should not be recognised automatically till the General Medical Council of Great Britain is prepared to grant similar reciprocity treatment to our medical qualifications. It should not be open, Sir, to persons holding European qualifications to come down and settle and practise their profession in India, while a bar sinister is placed upon the practise of our medical men into those countries outside.

Now, Sir, this Bill confers no privilege upon the registered medical practitioners, such as the power to grant certificates which may be valid in a Court of Law. There should be a rule that no person shall hold any civil, military, naval or air force appointment, unless he be registered under the proposed Act. The result is that any foreign national can settle in India, and practise without his name being on the Indian Register.

There is another matter to which I should like to make a reference. In the First Schedule, Patna, Andhra and Rangoon Universities have been excluded from the purview of this Act. Medical examinations of these Universities have been inspected more than once by competent Inspectors and the sufficiency of these examinations was well admitted by these Inspectors. Major General Megaw, Major General Sprawson, Sir Frank Conner and Colonel Dutton, all Government officers, were the Inspectors for the medical examinations of these and other Universities. Sir, the Bihar and Orissa Council of Medical Registration, the Faculty of Medicine, and the Senate of the Patna University, have passed resolutions protesting against the exclusion of the Patna University. I had

[Mr. Gaya Prasad Singh.]

some correspondence also with the Patna University, and I give expression to their feeling of dissatisfaction at the exclusion of my University from the purview of this Act. Sir Nil Ratan Sarkar, presiding over the 8th Session of the All-India Medical Conference, in Calcutta, in 1932, said:

"From personal knowledge, I am in a position to state that the Patna Medical College is a thoroughly well-equipped and well-staffed institution, and I do not know how its claims to recognition will be ignored by the Government."

Sir, at this late hour, I do not propose to tire the patience of the House. I am only anxious, Sir, that when the Bill is committed to the Select Committee, opportunity will be found for rectifying the objectionable features of the Bill, so that when it is placed on the Statute-book, it will be a Bill which will be acceptable to the medical profession and to the country generally. My only last words will be with regard to the Bill: amend, mend or end it.

**Several Honourable Members:** The question may now be put.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Chair accepts the closure. The question is that the question be now put.

The Assembly divided:

AYES—39.

Abdul Hye, Khan Bahadur Abul Hasnat Muhammad.  
Acott, Mr. A. S. V.  
Ahmad Nawaz Khan, Major Nawab.  
Ahmed, Mr. K.  
Allah Baksh Khan Tiwana, Khan Bahadur Malik.  
Bajpai, Mr. G. S.  
Bhore, The Honourable Sir Joseph.  
Clow, Mr. A. G.  
Dalal, Dr. R. D.  
Dutt, Mr. G. S.  
Dutt, Mr. P. C.  
Fox, Mr. H. B.  
Ghuznavi, Mr. A. H.  
Hezlett, Mr. J.  
Hudson, Sir Leslie.  
James, Mr. F. E.  
Jawahar Singh, Sardar Bahadur Sardar.  
Lal Chand, Hony. Captain Rao Bahadur Chaudhri.  
Leach, Mr. A. G.

Mackenzie, Mr. R. T. H.  
Megaw, Major General Sir John.  
Metcalf, Mr. H. A. F.  
Mitchell, Mr. D. G.  
Morgan, Mr. G.  
Mukherjee, Rai Bahadur S. C.  
Noyce, The Honourable Sir Frank.  
Rafiuddin Ahmad, Khan Bahadur Maulvi.  
Raisman, Mr. A.  
Ryan, Sir Thomas.  
Schuster, The Honourable Sir George.  
Seaman, Mr. C. K.  
Sher Muhammad Khan Gakhar, Captain.  
Singh, Mr. Pradyumna Prashad.  
Smith, Mr. R.  
Suhrawardy, Sir Abdulla-al-Mamūn.  
Tottenham, Mr. G. R. F.  
Trivedi, Mr. C. M.  
Vachha, Khan Bahadur J. B.  
Yakub, Sir Muhammad.

NOES—21.

Abdul Matin Chaudhury, Mr.  
Azhar Ali, Mr. Muhammad.  
Biswas, Mr. C. C.  
Chandi Mal Gola, Bhagat.  
Das, Mr. B.  
Dutt, Mr. Amar Nath.  
Gunjal, Mr. N. R.  
Jadhav, Mr. B. V.  
Jog, Mr. S. G.  
Kyaw Myint, U.  
Maswood Ahmad, Mr. M.

Mitra, Mr. S. C.  
Pandian, Mr. B. Rajaram.  
Parma Nand, Bhai.  
Raghubir Singh, Kunwar.  
Ranga Iyer, Mr. C. S.  
Sarda, Diwan Bahadur Harbilas.  
Singh, Kumar Gupteshwar Prasad.  
Singh, Mr. Gaya Prasad.  
Thampan, Mr. K. P.  
Uppi Saheb Bahadur, Mr.

The motion was adopted.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Does Mr. Bajpai want to reply?

**Mr. G. S. Bajpai** (Secretary, Department of Education, Health and Lands): Yes, Sir: I shall take a few minutes.

**Mr. O. S. Ranga Iyer** (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Take a long time: go the whole hog.

**Mr. G. S. Bajpai**: My Honourable friend seems to be in a festive mood and he is, therefore, requesting me to prolong the gaiety, but I am quite sure that at this late hour of the day (*An Honourable Member*: "It is not day now.") (Laughter), and, at the end of a long and very strenuous Session, the one quality which the House will appreciate most in any speaker will be the quality of brevity and I shall endeavour to compress my remarks to the utmost possible extent. The discussion this afternoon brought out, in the course of a very lucid and very fair, though undoubtedly critical, speech from my Honourable friend, Mr. Neogy, the real difficulty about this Bill. The difficulty of this Bill is that it is the victim of an atmosphere. It is very difficult for any speaker to contend against an atmosphere, and . . . .

**Mr. C. C. Biswas**: Self-created!

**Mr. G. S. Bajpai**: I do not think it is self-created: it is largely created by others who are determined to see nothing good in the Bill and everything evil . . . .

**Mr. Amar Nath Dutt** (Burdwan Division: Non-Muhammadan Rural): But you have not given us an opportunity to have our say, the officials are carrying the motion by *vis major*.

**Mr. G. S. Bajpai**: Where is the *vis major*?

**Mr. Gaya Prasad Singh**: But why have you stifled discussion just now? The Government voted for closure.

**Mr. G. S. Bajpai**: I should have thought that after nearly three days' discussion, every aspect of this not very complicated Bill would have been laid threadbare . . . .

**Mr. O. S. Ranga Iyer**: Is it the Honourable gentleman's desire that the discussion should be carried on from this House into the Select Committee?

**Mr. G. S. Bajpai**: Well, Sir, on points, which are covered by the scope of the Bill, it is not only our intention, but it is natural that discussion should continue from this House into the Select Committee. (*Interruption*.) I think it would really be best if my Honourable friends opposite, who have had an opportunity of expressing their own views, would extend to me the courtesy and patience to listen to what I have to say . . .

**Mr. Amar Nath Dutt**: But what about those who have not?

**Mr. G. S. Bajpai:** My Honourable friend must appreciate that this is not the third reading of the Bill, nor am I moving that the Bill be passed. When the Bill returns from Select Committee, my Honourable friend, Mr. Dutt, would have ample latitude to express his views at any length that he likes. To get back to the Bill, which we are discussing: it will not be possible at this stage to traverse all the arguments that have been put forward in the course of a very long debate, and I shall endeavour to confine myself to three main points. The first point is the scope of the Bill. Over and over again, we have been asked: "Why do you make the scope of this Bill so narrow? Why not, for example, be ambitious and attempt to enable the public to discriminate between the qualified and unqualified medical practitioner?" May I ask my Honourable friends opposite what would happen if we attempted a task like that and perchance, excluded *vaids* and *hakims*?—I do not think it needs any undue perspicacity to predict that any such attempt would create a far fiercer storm than has been created by the omission of the licentiates from the scope of this Bill . . . . .

**Mr. O. S. Ranga Iyer:** Does the Honourable gentleman put the licentiates in the same category as the *vaids* and *hakims*?

**Mr. G. S. Bajpai:** I do not put the licentiates in the same category as *vaids* and *hakims*; but, after all, we are thinking of the people of this country. I am quite sure, my Honourable friend will find that many a man in this country puts the *vaid* and the *hakim* above the best allopath available in the country, . . . . .

**An Honourable Member:** Some of them are.

**Mr. G. S. Bajpai:** Then, the second question, again coming under the scope is: "Why not invest the Council, which you propose to set up, with the power to supervise standards of professional conduct?" The answer to that is that provision to that effect already exists in the provincial codes or acts and we cannot go and override those Provincial Acts without the consent and the goodwill of the provinces. The reason, why the Bill which we circulated in 1928 was wrecked in discussion in the Conference that we held in Simla, in 1929, was that the provinces were unwilling to permit of that measure of infringement of their autonomy and power. The third point, again under the scope, which has been put to us is "Why not confer upon these people certain privileges with a view to bringing them under the supervision and control of the proposed Medical Council?" The answer is the same as I have given to the second point, namely, that privileges are regulated by the provincial Acts and the provinces are unwilling that those powers shall be transferred to another body, a central body. (Interruption.) The last question which arises under the head "scope" is that of the register, and my Honourable and gallant friend Sir Henry Gidney made a great effort this afternoon in order to make out that registration was necessary in order to ensure uniformity of standard, be it a minimum standard or a maximum standard. Now, what I submit to the House is that the mere fact of registration is not going to secure uniformity. Registration is an index of something that has gone before, namely, inspection and supervision; and the reason why we have not been able to attempt inspection and supervision or the setting up of machinery for inspection and supervision for this very deserving and very large class of medical practitioners is, first financial and secondly, again the unwillingness of

the provinces at this stage to go beyond what was agreed to in the Conference in 1930, namely, the co-ordination of the medical standards of education for graduates. I submit that in the light of the explanation that I have given, there is no justification for suggesting that our attitude, that our limited action is the result of any coercion or dictation from outside. I may assure my Honourable friends that the Conference which met in Simla in 1930 was in no way dominated by fear of any outside body. I can also assure the House that if we had thought that action along those lines was practicable, then no matter what anybody outside might have told us, we should have said—this is no business of yours, we shall do what we think is right for the country. But what I submit to the House is, Sir, that the House should abandon suspicion from its mind because suspicion is not justified. We have great respect for the licentiates; we have great regard for the licentiates, and as the Honourable the Education Member said this afternoon, we are quite prepared to explore, in consultation with Local Governments, the possibility of going as far as we can in the direction in which the licentiates themselves want to go, but what we wish the House to realise is that we cannot travel along that path without the willing co-operation of the provinces, and at this stage it would be best to leave the matter at that.

Then, Sir, I pass on to the other two points of importance in this Bill. My Honourable friend, Mr. K. C. Neogy, when he was talking of the atmosphere of suspicion which surrounds the Bill, said, these two points, namely, the composition of the Council proposed in the Bill and the provision as regards reciprocity strengthened the suspicion that we were acting under dictation from an outside body, that we were not solicitous of the honour and the rights of the graduates of this country. Let me assure the House that every one on this side is as solicitous of the honour of our Universities and the dignity and the rights of our graduates as Honourable Members opposite. In the speech which I made, when I first made this motion, I said, our intention was that the Select Committee should go into these matters fully and freely. That statement, Sir, was repeated by the Honourable the Education Member today, and I invite the House to extend to us a measure of reciprocity in trust, go to the Select Committee and see whether we cannot effect improvements both as regards the composition of the Council and as regards the provision in respect of reciprocity which would fully satisfy non-official opinion in this country. My friend, Mr. Neogy, Sir, when he was speaking on this point, seemed to think that because the number of Indians who would benefit by any measure of reciprocity that might be negotiated was small, therefore the point was not worth pursuing. I would submit, Sir, that it is not a question of numbers. It really is a question of self-respect and of the dignity of our graduates, of which our Honourable friends opposite are so solicitous. What we want is that our students should go abroad, that they should have free access to Universities and leading institutions as free men and not subject to any restrictions or limitations. That, Sir, is the objective which we have at heart, and I have no doubt that that is an objective which is shared by Honourable Members opposite also.

Now, Sir, just one or two words about my friend, Mr. Maswood Ahmad's motion for circulation. It has not found much support as far as I can make out from my perusal of the records of the debate, and I would simply state to the House that considering the fact that the Bill



[Mr. G. S. Bajpai.]

with alternative provisions was circulated in 1931 and that the bulk of opinions received shows that every shade of opinion in this country has been consulted, it is not worth while proceeding again with this dilatory process of circulating the Bill. We have got ample material before us now, and it is for the House to decide whether, within the scope of the Bill, we shall go to the Select Committee to effect such improvements as we all desire or we shall not take that step.

There is one point of fact raised by my friend, Mr. Gaya Prasad Singh, which I should like to answer. He asked me why it was that the licentiatees were included in the Bill which was originally circulated and that they had been subsequently excluded. If my friend will turn to the covering letter with which the Bill was circulated, he will find that Government clearly stated there that the Simla Conference had been against the inclusion of the licentiatees, that the Government of India themselves were not in favour of their inclusion, but that they would like to have the opinions of the Local Governments on the point, and as I stated, when the Bill was being discussed on the 18th February, of the Local Governments consulted, seven were against the inclusion of the licentiatees and two in favour. That, Sir, is the reason really why the licentiatees do not figure within the scope of the Bill, and we have altered the Preamble to the Bill in order to rectify the misapprehensions which were created by the Preamble of the Bill that was originally circulated. I have nothing more to say.

**Mr. M. Maswood Ahmad:** May I ask one question, Sir? Will it be possible to include Patna, Andhra and Rangoon Universities in the Bill in the Select Committee?

**Mr. G. S. Bajpai:** As regards that, Sir, also the position was explained not by me, but by my friend, Diwan Bahadur Ramaswami Mudaliar. We are basing our First Schedule at this stage upon recognitions based on examination and inspection at the basic year which is 1930.

**Mr. M. Maswood Ahmad:** Will you allow us to discuss this point in the Select Committee?

**Mr. G. S. Bajpai:** Of course, it is open to the Select Committee to discuss anything that they like in regard to the constitution of the Schedules. I was going to say that they could discuss anything within the scope of the Bill. My friend will appreciate that the Schedule to the Bill does deal with one point, namely, what qualifications are going to be selected. Whether Andhra shall be included or excluded are all matters left to the Select Committee. I was merely trying to give the reason why in the Schedule, as framed, those qualifications have not been included.

**Lieut.-Colonel Sir Henry Gidney:** May I ask a question, with your permission, Sir? Before this matter goes to the Select Committee, will the Honourable Member inform this House whether or not he is prepared to consider the advisability of changing the name, if the Committee so decides, from the Indian Medical Council Bill to the Medical Reciprocity Bill?

**Mr. G. S. Bajpai:** Sir, the nomenclature of the Bill and the Preamble of the Bill are certainly within the scope of the Select Committee and no assurance from me is needed on that.

**Mr. C. S. Ranga Iyer:** Before we make up our minds as to whether we should press this motion to a division or not, we should like to know from the Honourable gentleman opposite whether it will be permissible for us, Members serving on the Select Committee, to raise the question of the qualification of the licentiates in the Select Committee discussion and their inclusion if the qualification is so raised or otherwise in the register?

**Mr. G. S. Bajpai:** My friend has merely to look at clause 18 of the Bill which definitely provides the procedure by which qualifications, not included in Schedule I, are to be recognised. It will be open to the Select Committee to consider the question of how qualifications, improved qualifications of licentiates may be admitted. All that I am trying to explain at this stage is that the present qualifications of licentiates cannot be included, and their inclusion cannot be discussed.

**Mr. C. S. Ranga Iyer:** What we want to know is this. Because there is a feeling on this side that further discussion on this question has been stifled, and, therefore, Honourable Members want to take up this matter in the Select Committee with regard to the qualifications of the licentiates, and if the Government agree to it, we will not press the motion to a division, and, therefore, we would only ask the Government to say whether we can transfer the discussion, which we would have liked to have on the floor of the House, to the Select Committee in regard to the raising of the qualifications or otherwise of the licentiates.

**Mr. Gaya Prasad Singh:** And their answer will determine our votes.

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** I do not think it is fair for Honourable Members opposite to dictate a reply on the basis of a threat of votes.

**Mr. C. S. Ranga Iyer:** I immediately withdraw if the Honourable gentleman thought that I was threatening. I was only trying to express my viewpoint in the mildest manner possible.

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** The Honourable Member perhaps did not hear from his side what was said—"that the reply will determine our votes". Undoubtedly, the reply would be no reply if it did not determine some Member or other to change his mind as to how he is to vote. No answer that I can give to my friends can possibly affect the scope of the Bill. It is not within my power to extend the scope of the Bill by agreement. The scope is there as I stated in my speech. The other point is whether it is open to the Select Committee to decide in favour of there being one standard of medical education in the country and one degree. That certainly is within their jurisdiction. If there is one standard, provided that that standard is University standard, in other words, higher education, certainly they have every right to discuss it and decide about it, but if it is to be one standard other than University education, then certainly it will not be within the scope of the Bill. Therefore, my reply is that one standard, provided it is the University

[Sir Fazl-i-Husain.]

standard, will certainly be within the scope of the discussion of the Select Committee.

**Mr. C. S. Ranga Iyer:** I am afraid the Honourable gentleman has not quite caught the opposition point of view. What we would like to know very clearly is whether it will not be possible for us to take up the question of licentiates in the Select Committee. There is another added circumstance. When we agreed to sit at night, we thought we would have adequate opportunity of expressing our opinion on this matter, but Government applied the closure and we have been denied the opportunity of expressing our opinion on this matter. We want to know whether the Honourable gentleman opposite is going to take his stand in the Select Committee on the quintessence of technicality and say that the scope of the Bill does not permit of the taking up of the question of licentiates, which is a bone of contention. We want to have further opportunities of exploring a contentious matter like this in the Select Committee and I want to know whether we can raise the question of the licentiates including the increase of their qualifications, if necessary, and the consultation of the Provincial Governments in the Select Committee.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. When Bills are referred to a Select Committee, it is open to any member of that Committee to move in the Select Committee amendments which are within the scope of the Bill. While it is permissible for Honourable Members to ascertain from Government what their attitude with regard to a particular point would be in the Select Committee, it is not open to any Honourable Member on the Treasury Bench to say here and now what is within the scope of the Bill. The decision, so far as this House is concerned, during the discussions on the floor of the House as to whether particular amendments or remarks are within the scope of a Bill, is entirely vested in the Chair and, similarly, in the proceedings of a Select Committee, it is entirely within the discretion of the Chairman of the Select Committee, whoever he might be, to decide, when a question arises in the Select Committee, whether that question is within the scope of the Bill or not. No amount of undertaking on the part of any Honourable Member of Government can bind the decision of the Chairman of the Select Committee. The Chair wants that the Honourable Members should clearly understand the position and that the Honourable Member for Government should also understand the limitations of his position. If the Honourable Sir Fazl-i-Husain is giving any undertaking here, it is only to this effect, that he may not raise a certain objection, but it will be perfectly open to the Chairman of the Select Committee and it is only within his jurisdiction to decide as to whether an amendment is within or outside the scope of the Bill.

**Mr. C. S. Ranga Iyer:** I quite bow to the Chair's ruling. All that I wanted to know was this. I was not restricting or commenting upon the jurisdiction of the Chairman of the Select Committee. All I wanted to know on behalf of the Opposition was this, whether the Government, so far as they are concerned, will put any spoke in the wheel in regard to the discussion of the position of the licentiates. I should like to know whether the Government will give us an answer in this matter.

**The Honourable Khan Bahadur Mian Sir Fazl-i-Husain:** I am afraid I cannot really add anything to what I have said just now and this afternoon. My speech was fairly long and fairly explicit.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The original question was:

"That the Bill to establish a Medical Council in India and to provide for the maintenance of a British Indian Medical Register, be referred to a Select Committee consisting of the Honourable the Law Member, the Honourable Sir Frank Noyce, Dr. R. D. Dalal, Mr. Arthur Moore, Sir Hari Singh Gour, Sirdar Harbans Singh Brar, Mr. Gaya Prasad Singh, Mr. Satish Chandra Sen, Dr. Ziauddin Ahmad, Mr. B. Sitaramaraju, Mr. S. C. Mitra, Kunwar Hajee Ismail Ali Khan, Mr. Muhammad Yamin Khan, Sir Abdulla-al-Mámün Suhrawardy, Mr. T. N. Ramakrishna Reddi, Mr. N. N. Anklesaria and the mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Since which an amendment has been moved that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st July, 1933.

The question I have to put is that that amendment be made:

**The Assembly divided:**

AYES—24.

Abdul Matin Chaudhury, Mr.  
Azhar Ali, Muhammad.  
Biswas, Mr. C. C.  
Chandi Mal Gola, Bhagat.  
Chinoy, Mr. Rahimtoola M.  
Dutt, Mr. Amar Nath.  
Gunjal, Mr. N. R.  
Jadhav, Mr. B. V.  
Jog, Mr. S. C.  
Kyaw Myint, U  
Maswood Ahmad, Mr. M.  
Mitra, Mr. S. C.

Neogy, Mr. K. C.  
Pandian, Mr. B. Rajaram.  
Parma Nand, Bhai.  
Patil, Rao Bahadur B. L.  
Raghubir Singh, Kunwar.  
Ranga Iyer, Mr. C. S.  
Rastogi, Mr. Badri Lal.  
Reddi, Mr. T. N. Ramakrishna.  
Sarda, Diwan Bahadur Harbilas.  
Singh, Kumar Gupteshwar Prasad.  
Singh, Mr. Gaya Prasad.  
Uppi Saheb Bahadur, Mr.

NOES—43.

Abdul Hye, Khan Bahadur Abul Hasnat  
Muhammad.  
Acott, Mr. A. S. V.  
Ahmad Nawaz Khan, Major. Nawab.  
Ahmed, Mr. K.  
Allah Baksh Khan Tiwana, Khan Baha-  
dur Malik.  
Anklesaria, Mr. N. N.  
Bajpai, Mr. G. S.  
Bhore, The Honourable Sir Joseph.  
Clow, Mr. A. G.  
Dalal, Dr. R. D.  
Dutt, Mr. G. S.  
Dutt, Mr. P. C.  
Fox, Mr. H. B.  
Ghuznavi, Mr. A. H.  
Gidney, Lieut.-Colonel Sir Henry.  
Hezlett, Mr. J.  
Hudson, Sir Leslie.  
Ismail Ali Khan, Kunwar Hajee.  
James, Mr. F. E.  
Jawahar Singh, Sardar Bahadur Sardar.  
Lal Chand, Hony. Captain Rao Bahadur  
Chaudhri.

Leach, Mr. A. G.  
Mackenzie, Mr. R. T. H.  
Megaw, Major-General Sir John.  
Metcalf, Mr. H. A. F.  
Mitchell, Mr. D. G.  
Morgan, Mr. G.  
Mukherjee, Rai Bahadur S. C.  
Noyce, The Honourable Sir Frank.  
Rafiuddin Ahmad, Khan Bahadur  
Maulvi.  
Raisman, Mr. A.  
Ryan, Sir Thomas.  
Schuster, The Honourable Sir George.  
Seaman, Mr. C. K.  
Sher Muhammad Khan Gakhar, Cap-  
tain.  
Singh, Mr. Pradyumna Prashad.  
Smith, Mr. R.  
Suhrawardy, Sir Abdulla-al-Mámün.  
Tottenham, Mr. G. R. F.  
Trivedi, Mr. C. M.  
Vachha, Khan Bahadur J. B.  
Yakub, Sir Muhammad.  
Yamin Khan, Mr. Muhammad.

The motion was negatived.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Chair has got notices of certain formal amendments with regard to the change of certain names of Members for the Select Committee. The Chair has no objection to allowing these motions to be moved, before the main question is put.

**Sir Leslie Hudson** (Bombay European): Sir, with your permission, I beg to move:

"That in the motion to refer the Bill to a Select Committee, in place of the name of Mr. Arthur Moore, the name of Lieut.-Colonel Sir Henry Gidney be substituted."

**Mr. S. C. Mitra**: Sir, I move:

"That in place of the name of Dr. Ziauddin Ahmad, the name of Mr. Muhammad Azhar Ali be substituted."

**The Honourable Sir Frank Noyce** (Member for Industries and Labour): Sir, I move:

"That in the motion to refer the Bill to a Select Committee, the name of Major-General Sir John Megaw be added."

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. The question is:

"That for the name of Mr. Arthur Moore the name of Lieut.-Colonel Sir Henry Gidney be substituted."

The motion was adopted.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That for the name of Dr. Ziauddin Ahmad the name of Mr. Muhammad Azhar Ali be substituted."

The motion was adopted.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That the name of Major-General Sir John Megaw be added."

The motion was adopted.

**Mr. Gaya Prasad Singh**: Sir, I beg to move:

"That in place of Sir Hari Singh Gour's name, the name of Mr. Amar Nath Dutt be substituted."

**Mr. Muhammad Yamin Khan**: May I ask, Sir, whether the consent of Sir Hari Singh Gour has been taken to leaving his name out from the list of the members of the Committee? Is that or is that not necessary?

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): In order to include the name of any particular Member, the consent of that Member is necessary, but until the House adopts the motion, no Member has yet been made a Member of the Select Committee.

**Mr. Gaya Prasad Singh:** I have got the written authority of Sir Hari Singh Gour.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

■ "That in place of Sir Hari Singh Gour's name, the name of Mr. Amar Nath Dutt be substituted."

The motion was adopted.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The question is:

"That the Bill to establish a Medical Council in India and to provide for the maintenance of a British Indian Medical Register, be referred to a Select Committee consisting of the Honourable the Law Member, the Honourable Sir Frank Noyce, Dr. R. D. Dalal, Sir Henry Gidney, Mr. Amar Nath Dutt, Sirdar Harbans Singh Brar, Mr. Gaya Prasad Singh, Mr. Satish Chandra Sen, Mr. Muhammad Azhar Ali, Mr. B. Sitaramaraju, Mr. S. C. Mitra, Kunwar Hajee Ismail Ali Khan, Mr. Muhammad Yamin Khan, Sir Abdulla-al-Māmūn Suhrawardy, Mr. T. N. Ramakrishna Reddi, Mr. N. N. Anklesaria, Major-General Sir John Megaw and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

## THE INDIAN MERCHANT SHIPPING (SECOND AMENDMENT) BILL.

**Mr. A. Raisman** (Government of India: Nominated Official): Sir, I beg to move:

"That the Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes (*Second Amendment*), be referred to a Select Committee consisting of the Deputy President, the Honourable Sir Joseph Bhole, Bhai Parma Nend, Mr. S. G. Jog, Mr. Gaya Prasad Singh, Mr. Muhammad Azhar Ali, Mr. B. V. Jadhav, Mr. S. C. Mitra, Sir Leslie Hudson, Khan Bahadur Haji Wajihuddin, Mr. B. N. Misra, Sir Muhammad Yakub and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir, at this late hour and at the very end of a crowded legislative Session. I shall not take the time of the House for more than the very few minutes which are necessary to explain the purpose of this Bill which, though it is an important measure, is entirely non-controversial.

As explained in the Statement of Objects and Reasons, the primary object of this Bill is to effect such amendments in the Indian Merchant Shipping Act, 1923, as are necessary to give effect to two very important Conventions relating to maritime shipping—the International Convention for the Safety of Life at Sea, 1929, and the International Loadline Convention, 1930. I should perhaps observe in the first instance that these Conventions have been signed by practically all the important maritime countries of the world. It is hardly necessary for me to emphasise the importance of India in the sphere of maritime shipping. India has an extensive coast line and several major ports which serve not only as terminal ports for the sea-borne trade between India and the other countries of the world, but also as ports of call for ships proceeding on the important trade routes to the Far East. The tonnage of shipping registered in India exceeds a quarter of a million tons, whilst a much greater quantity of shipping is either permanently based on India or trades regularly between

[Mr. A. Raisman.]

India and other countries. It has, therefore, always been a matter of importance that the administration of matters connected with Merchant Shipping in India should be kept at a standard which will secure international recognition. In becoming a signatory to these two Conventions, India signified her desire to maintain to the full extent the standards of administration and of supervision which all the great maritime countries of the world have agreed to be necessary and desirable in the interests of all those who go down to the sea in ships and of all those who entrust their property for transport to ocean-going vessels.

I will now say a few words regarding the purport of each of these two Conventions. The subject matter with which they deal is in many respects highly technical, and I would not weary the patience of Honourable Members by entering into the complications of these technical matters. My object is merely to indicate briefly and in ordinary everyday terms the scope of these International Conventions. The Convention for the Safety of Life at Sea, which may briefly be referred to as the Safety Convention, lays down certain standards to which ships—and especially ships plying on international voyages—should conform. There are special requirements applicable to mechanically propelled passenger ships plying on such voyages. They have to be constructed according to certain rules which are intended to secure the greatest measure of safety and of immunity from disaster in the event of the ship becoming involved in an accident. It is a familiar principle that the greater the number of watertight compartments into which a vessel is divided, the more immune it will be from the danger of sinking in the event of one of these compartments being penetrated and becoming filled with water. The Safety Convention lays down the degree of sub-division with which ships must comply in accordance with the service for which they are intended. Then, again, there is the important question of life saving appliances. The Convention prescribes the number and nature of life-boats which shall be carried by each type of ship, the arrangements for securing that they shall be readily available in time of need, the life-rafts and other buoyant apparatus with which they should be provided and the number and nature of life-jackets and life-buoys which should be available for the passengers. The Convention also deals with means of ingress and egress to and from the various decks and compartments, with the carriage of dangerous goods and the precautions which should be observed and with the arrangements which should be made for protection against fire. Then, there are provisions regarding the wireless telegraphy installations to be maintained on ships and the nature of the watch which should be maintained in connection with these installations. In order to promote the general safety of navigation, provision has been made for the communication by ships of information regarding all dangers which may come to their notice in the course of their voyages to other ships in the vicinity and to shore authorities which can broadcast them throughout the area affected. A procedure is laid down regarding the issue of distress messages by ships in distress, and for the action to be taken by all ships receiving such messages. It has also been agreed, for the first time in the modern history of navigation, that a uniform system of helm orders shall be adopted on all ships. As this is a matter which has aroused considerable public interest, I may perhaps say a few words in explanation

In the old days when the master of a ship wished to turn the ship to the left, i.e., to port, he used to give orders that the tiller should be 'pushed to the right or to starboard'. The effect of this action was that the rudder of the ship moved to the left and the head of the ship also moved to the left or to port. In other words, in order to turn the ship to port, he gave the order "Helm to starboard". When the tiller was replaced by a wheel, the form of order still continued. In modern ocean-going ships, there is, of course, usually nothing so primitive as the old hand-operated tiller, and the continuance of direction orders in the old form is largely a survival. Many countries had, therefore, abandoned this system and had adopted instead a direct form of order which merely indicated to the helmsman the direction in which the head of the ship was intended to move. The countries of the British Empire, however, along with certain others adhered until quite recently to the old indirect form of helm orders. These countries have, however, now decided to come into line and to adopt as a uniform system the direct method which is embodied in and made obligatory by the Safety Convention. I may say that the direct form of helm orders has already been imposed by law since the 1st January, 1938, on ships registered in the United Kingdom, and has by executive orders also been adopted with effect from that date in Indian waters.

Finally, the Safety Convention provides for the system of international safety certificates which each country shall issue to its own ships, but which will be accepted in the ports of all countries which have adhered to the Convention. The system of internationally recognised certificates will minimise the delay and inconvenience to which ships were liable to be exposed in foreign ports when the standards with which they had to comply were a matter of national rather than of international regulation. It will be observed that a considerable part of the Bill now before the House deals with the issue of these certificates and with the recognition of certificates issued by other Governments when presented by ships visiting Indian ports. This, then, is the scope of the Safety Convention, but, before I leave that Convention, I may mention a particular matter which is of special interest to India. It was realised, when the Convention was framed, that it would not be entirely practicable and advantageous to apply all its provisions to ships employed in the carriage of large numbers of unberthed passengers in certain special trades which include the Indian deck passenger and pilgrim trades. The Convention accordingly provided that steps should be taken to formulate rules which would be suitable to the particular circumstances of those trades, and that these rules should be formulated in concert by the Governments interested in these trades. The Government of India took a leading part in the formulation of these special rules. A Conference was held at Simla in 1931 at which the other Governments interested in the unberthed passenger trade were represented and the result of the labours of this Conference is known as the Simla Rules, 1931. These rules provide, as it were, an appendix or supplement to the Convention and, when they have been generally accepted by all the contracting Governments, will be applicable, in respect of the matters with which they deal and of the area to which they apply, to the deck passenger and pilgrim trades.

I turn now to the International Loadline Convention, 1930. The subject matter of this Convention is more technical than that of the



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Safety Convention, but the importance of securing international uniformity in this sphere is, if possible, even greater. A well-known authority has said:

"The theory of the load line is that there is a maximum load which a given ship can carry in safety and security across the ocean and this is determined by fixing the point on the side to which the ship may be immersed. If this line is placed too low on the ship's side, an amount of cargo will be shut out which could safely be carried and in the aggregate this will mean a loss of carrying power and an unnecessary increase in the cost of carriage. On the other hand, if the mark is fixed too high, the ship's progress will be slower, she will suffer more from strain, dock damage and delays, there will be increased danger to the men on deck and, finally, a risk that the ship may be lost with all on board."

The task of the Loadline Conference was to draw up uniform loading rules which should be binding on the ships of all nations in all the seas of the world and that task they accomplished. They produced a set of rules which are regarded as a marked advance on anything of the kind which had preceded them and which, it is considered, will lead to greater justice as between ship and ship and nation and nation than the loadline regulations previously in force in the various countries. A matter which was of special importance to India was the fixing of the tropical period in certain zones. There are certain areas of the ocean in which it is considered that weather conditions in certain times of the year are so favourable that ships may safely be allowed to load more deeply when plying in those areas at those times of the year than would normally be allowed. These areas and periods used to be known as the Indian Summer Zones and the Indian Summer Periods, but in the Convention the term "Tropical" has been substituted for "Indian Summer". Now, one of the tropical zones, in which India is particularly interested, is the Bay of Bengal. The tropical or Indian summer period in the Bay of Bengal has hitherto been the 15th December to the 30th of April. Before the Convention, the commercial interests concerned and the Government of India were of opinion that this period could safely be extended by the inclusion of the first half of December and these views were placed before the International Conference by the delegates of India. Unfortunately, however, they were not accepted. It was found at the Conference that the only way in which agreement could be reached regarding the tropical zones and the tropical periods in various areas throughout the world was to apply a single meteorological criterion uniformly to all such areas. The criterion was that there should not have been on the average more than one hurricane in ten years during any particular month in that zone. The result of the application of this criterion was that whilst the existing tropical period in the Arabian Sea was extended, the tropical period in the Bay of Bengal was shortened by 15 days at the end of April. The Government of India are well aware that shipowners and commercial interests have been disappointed by this result. It must, however, be borne in mind that the importance of subscribing to an international system for the regulation of loadline throughout the world is so great that we must be prepared to make some sacrifice in order to reap the benefits of such a system. Moreover, the other maritime countries of the world, and in particular the greatest maritime country of all, namely, the United Kingdom, have already decided to ratify the Convention and to apply the new loadline rules to their own shipping when trading in the tropical zones. It would be exceedingly difficult and inconvenient for India alone to decline to apply to her ships, when trading on international

voyages in the particular area in question, the standards which the rest of the world has agreed to apply. Such a course would, moreover, involve a refusal to ratify the International Loadline Convention. For these reasons, the Government of India, after careful consideration, have decided that they should accept the conclusion of the Conference and adhere to the International system embodied in the Convention.

In the foregoing observations, I have endeavoured to put before the House the significance—and especially the significance for 11 P.M. India—of the Safety and Loadline Conventions. Honourable Members will find, however, on turning to the Bill that many of the matters to which I have referred are not specifically mentioned or, at any rate, not in any great detail in the Bill. The reason is that the subject matter is so technical that legislation has, of necessity, to take the form of rule-making powers, and details of the subject have to be provided for by rules issued under the provisions of the Act. Thus, the whole of the detailed technical arrangements for the assignment of loadlines will have to be provided by the framing of statutory rules. The Bill provides, broadly speaking, for the inspection and survey of ships to see that they comply with the rules made under the Act, for the grant of certificates to ships which do so comply and for the recognition of similar certificates granted by other countries which have adhered to the International Conventions. It also provides penalties for the contravention of these rules and authorises the detention of ships which attempt to proceed to sea in an unsafe or unsatisfactory condition.

I do not think I need detain the House any longer by further observations. There are, however, a few matters not connected with the Safety and Loadline Conventions regarding which we have taken this opportunity, to introduce a few amendments into the Indian Merchant Shipping Act as it now stands. Honourable Members will be interested to note that the phrases “native passenger” and “native passenger ship” which have for so long been embodied in our legislation and against which protests have frequently been raised by Select Committees will now disappear from the Indian Merchant Shipping Act. The term which we propose to substitute, namely, “unberthed passenger” is already recognized by International usage and has the advantage that it is based on no racial criterion, but covers indiscriminately all passengers for whom no special accommodation is reserved in any cabin, State room or saloon. Other minor amendments have been explained in the Notes on Clauses.

Sir, I have done. The International Conventions which this Bill will enable us to ratify have been described as a great charter for the safety of human life at sea, and I have no doubt that this House will be glad to subscribe the name of India to that charter.

Sir, I move.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Motion moved:

“That the Bill further to amend the Indian Merchant Shipping Act, 1923, for certain purposes (*Second Amendment*), be referred to a Select Committee consisting of the Deputy President, the Honourable Sir Joseph Bhole, Bhai Parma Nand, Mr. S. G. Jog, Mr. Gaya Prasad Singh, Mr. Muhammad Azhar Ali, Mr. B. V. Jadhav, Mr. S. C. Mitra, Sir Lealie Hudson, Khan Bahadur Haji Wajihuddin, Mr. B. N. Misra, Sir Muhammad Yakub and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

**Mr. S. C. Mitra** (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, I agree with the Honourable Member, Mr. Raisman, in referring this Bill to the Select Committee. I tried my best to hear attentively the most exhaustive speech that he made on this Bill, and in accepting this motion we are accepting merely the principle and in the Select Committee we shall be able to discuss the clauses in detail. But in such a big Bill it is very difficult even to find out the main principle; and that is our trouble. If Mr. Raisman assures us that he will not be very anxious in the Select Committee to raise any technical objection about what may be the principle of such a Bill, which we have already accepted, I hope from this side of the House we shall accept his motion without much discussion. Sir, I support the motion.

**Mr. O. S. Ranga Iyer** (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, I congratulate my Honourable friend, Mr. A. Raisman, on the very informing, useful and interesting speech that he delivered. We listened to it with great interest. (*A Voice*: "It was a maiden speech.") My friend, Sir Muhammad Yakub an *ex*-Speaker of this House, was just pleased,—to borrow a very familiar expression of the Leader of the Opposition,—to "ejaculate" that the Honourable gentleman was making a maiden effort. I do not know, Sir, but I can say that he delivered it in any case without the blushes of a maiden. (Laughter.) It was a very good speech and it was a great pleasure to us to listen to it and it was a pity that the Honourable gentleman cut short his speech and passed over two pages of interesting matter, to which also we would have liked to listen. I saw him hurriedly passing over those two pages, which he need not have done had he only recollected the House of Commons traditions at this hour of the night. (Laughter.)

Sir, a Committee which consists of such representative personalities like my friend, Bhai Parma Nand on one side and Sir Muhammad Yakub on the other, representing as each of them does honestly the cream of the opinions and the convictions of their respective communities, though each of them has his own different way of presenting the case; also so representative a Committee as consisting of the Honourable the Commerce Member on one side, whose judgment this House throughout has recognised as sound by its action and it has great respect for him and Sir Leslie Hudson on the other, representing as he does all the talents of the European Non-Official Benches which sometimes make us wish, with a pardonable envy . . . . .

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. What time the Honourable Member would take?

**Mr. O. S. Ranga Iyer**: Not very long, Sir. I believe I will not embarrass the Chair by making so long a speech as to keep you here in the small hours of the morning. (Laughter.) I was just going to say that the Committee is so representative that we should not press the motion to a division, provided, as Mr. Mitra made it very clear on behalf of the Opposition, that the Honourable gentleman, Mr. Raisman, will make it possible for Members opposite to raise the relevant points regarding this motion in the Select Committee instead of taking his stand on

the quintessence of technicality, as the Member in charge of a previous motion, I mean his boss, took on a previous occasion.

**Mr. N. R. Gunjal** (Bombay Central Division: Non-Muhammadan Rural): (The Honourable Member spoke in the vernacular).

**Mr. B. Das** (Orissa Division: Non-Muhammadan): Sir, the Merchant Shipping Act was passed ten years ago. Since then that Act has been amended on the floor of this House some seven or eight times. I want the Honourable the Commerce Member to tell me what he has done or his Department has done since then to develop the marine mind in India. I admit there is a training ship "Dufferin" which trains a few boys to life on the sea; some of these boys are still undergoing practical training on the ships of my friend, Sir Leslie Hudson . . .

**Sir Leslie Hudson** (Bombay: European): Not mine.

**Mr. B. Das**: But is it not time that there should be a board of trade examination introduced in India? Since that Act was passed, we have passed the Lighthouses Act. Sir, I congratulate my friend, Mr. Raisman, on his admirable speech. He talked about the Bengal Pilot Service and so many other things, but how does the Indian intellectual play a part in those things? Today the Indian brain is not allowed to get Board of Trade certificates in India. If two or three have secured those posts—there are some Parsi gentlemen who have secured certificates of captainships and are working as Captains of ships—others have not been able to get any certificates. What is the use of my passing this Bill and going and hobnobbing . . . . .

**Mr. A. Raisman**: On a point of explanation, may I say that anybody can take the Board of Trade examinations in India and that people do so every month?

**Mr. B. Das**: But, has my friend got similar machinery as the Board of Trade and Admiralty have got for the proper examination in England? Have we got any college for marine engineering or any nautical school? Are the Government of India going to give similar facilities to evolve similar intellectual atmosphere and the intellectual nucleus in India so that Indians can come out in dozens passing the Board of Trade examinations to fill the Bengal Pilot Service, the superintendentship of different lighthouses and the harbour masters of different docks and harbours, which we gave sanction for in 1927 under another Indian Merchant Shipping (Amendment) Act. Nothing has been done, and I know there are European officers who are serving as dock masters or directors of dockyards or as port officers: they are doing admirable work, but when they retire, their knowledge is lost to this country, and so I do not take any delight in that. While I was in Geneva in 1929, when I had the privilege to attend the International Labour Conference with you, Sir, I had the privilege of occasionally sitting in a Committee where part of this International Convention was being discussed, although the final touch was given in London. Sir, I support this reference to Select Committee. I do not like that Indians should appear to be barbarians before European countries and I do not like them to say

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that India does not like to ratify certain Convention; but I do blame the Commerce Department and the Government of India that they are not fostering in the country the marine spirit amongst the Indian educated classes to become shipping masters and harbour masters and pilots, and I think it is high time that my friend, the Commerce Member, should bring forward a Bill next Session to amend the Indian Merchant Shipping Act or any Act, so that the Indian intellectual nautical atmosphere may be evolved.

**Mr. B. V. Jadhav** (Bombay Central Division: Non-Muhammadan Rural): Sir, I join in the chorus of praise that was showered upon my friend, Mr. Raisman, for the fine speech he made—shall I say, this morning or this evening? I must say that I could not understand more than 25 per cent. of what he said, because he read the whole speech at an extra speed. I shall have to wait for about a week or ten days more before I receive the full report of his speech, and then I think I shall profit by it.

My friend, Mr. B. Das, has ventilated the grievances of the educated men of India. All they are in need of is a job and their prayer goes to Government to provide them with jobs and more jobs. He accuses Government of not taking measures for preparing the youths of India for the pilot service, for the lighthouse service and for the other thousand and one services connected with shipping. But he has forgotten to accuse the Government for their negligence in providing or in encouraging the Indian mercantile marine. Government have been very prompt in providing an Act ten years ago, and they have been very prompt in bringing amendment Bills every one or two years and this year also there have been two Bills; but if we ask them what they have been doing to encourage the Indian mercantile marine, I think they will not have a very good account to render. Government have been neglecting this and that is the reason why India does not possess a respectable mercantile marine and also no men who will be manning those ships and touring round the seas bringing riches of other countries to this land and taking cargoes from here. As for the Bill under consideration, it is very regrettable that this motion was made not only at the fag end but at the extreme end, I shall say, of the Session. It is a very desirable measure no doubt, because the Convention ought to be ratified, but so many changes have been introduced in the Indian Merchant Shipping Act recently that I think it would be better if a new consolidating measure embodying all the changes made were introduced. As an amending Bill, the present measure is a very long one, and, therefore, I think a consolidating Bill is very desirable. The Select Committee will take care to thrash out the various provisions in this Bill, and in that way I think the safety at sea will be increased. I support this measure.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): Order, order. Evidently, this Bill has excited a great deal of interest among the Members, and, in view of the very interesting speech which the Honourable Member on behalf of Government made, full opportunity must be given for a full discussion on this motion, and the Chair therefore, thinks that the debate must now conclude and the House will resume it at its next sitting.

**Mr. A. Raisman:** Sir, I would like to point that it is very necessary that this measure should be put on the Statute-book as soon as possible. The position at present is, as I explained in my speech on the motion to refer this Bill to a Select Committee, that a large number of countries have already ratified these Conventions, and it is very necessary that India should also adopt them. If there is delay in undertaking this legislation, there will be serious administrative inconvenience, and I would, therefore, suggest that this matter should be expedited as much as possible.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): The Chair has done its very best to expedite the business during this Session, but it finds that very many Honourable Members are still getting up in their seats. Anyhow, it will be open to Government to place this motion on the first agenda in the next Session and get it through. It is not justifiable on the part of the Chair to ask Honourable Members to sit any longer.

**Mr. D. G. Mitchell** (Government of India: Nominated Official): Sir, if there are many Honourable Members particularly anxious to speak, they can do so, because this is a very important measure and we do not like there should be any delay in putting it on the Statute-book.

**Mr. M. Maswood Ahmad** (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Sir, we cannot accept even the principle of the Bill. That is the point.

**Mr. President** (The Honourable Mr. R. K. Shanmukham Chetty): It is not possible for the Chair to ask the Members to sit any longer tonight. The Chair would only, before adjourning the House, wish all Honourable Members a very pleasant holiday after the strenuous labours of the Session.

The Assembly then adjourned *sine die*.



# CORRIGENDA.

In the Legislative Assembly Debates,  
Delhi Session, 1933—

(1) Vol. I, No. 2, dated the 2nd February, 1933, pages 106 to 112, in the first lines of starred questions Nos. 80, 81, 82, 83, 84, 85, 86, 87 and 88, for “Nawab Naharsingji Shwarsingji” read “\*Mr. M. Maswood Ahmad (on behalf of Nawab Naharsingji Shwarsingji)”.

(2) Vol. I, No. 11, dated the 20th February, 1933, page 304, line 12, for the word “three” read “two”.

(3) Vol. I, No. 12, dated the 21st February, 1933, page 919, in the first line of starred question No. 425, for “\*Seth Haji Abdoola Haroon” read “\*Mr. M. Maswood Ahmad on behalf of Seth Haji Abdoola Haroon”.

(4) Vol. II, No. 3, dated the 25th February, 1933, page 1192, line 15, for “communalism” read “Nationalism”.

(5) Vol. II, No. 9, dated the 6th March, 1933, page 1586, in the subject-heading to starred question No. 652, for the words “Subordinate Service Examination” read “Subordinate Accounts Service Examination”.

(6) Vol. II, No. 12, dated the 9th March, 1933—

(i) page 1822, line 24, after “Mr. Deputy President” insert “I”.

(ii) page 1853, line 8 from the bottom for “Edgar Allan Poe” read “Edgar Allan Poe”.

(7) Vol. III, No. 2, dated the 14th March, 1933, page 2057, line 5 from the bottom, for “you been” read “you have been”.

(8) Vol. III, No. 4, dated the 16th March, 1933, page 2185, line 20, for the word “any” read “and”.

(9) Vol. III, No. 6, dated the 21st March, 1933, page 2321, line 4 from the bottom, for “spectable” read “spectacle”.

In the Legislative Assembly Debates,  
Delhi Session, 1933—*contd.*

(10) Vol. III, No. 8, dated the 23rd March, 1933, page 2473, line 16, for “\*adopted” read “adopted”.

(11) Vol. IV, No. 1, dated the 31st March, 1933, page 2970, line 7 from the bottom, for the word “roled” read “rolled”.

(12) Vol. IV, No. 2, dated the 1st April, 1933, page 3043, last line, for “constructing” read “construing”.

(13) Vol. IV, No. 5, dated the 7th April, 1933, page 3267—

(i) Insert the words “The motion was adopted.” after the division list.

(ii) Delete the seventh line from the bottom containing the words “The motion was adopted.”

(14) Vol. IV, No. 6, dated the 8th April, 1933—

(i) page 3328, line 14, for “\*mustajib” read “\*mustahib”.

(ii) page 3328, line 21, for “\*Syyads” read “\*Saiyads”.

(iii) page 3333, first line, for the word “it” read “is”.

(iv) page 3363, line 17, for “and” read “any”.

(15) Vol. IV, No. 7, dated the 10th April, 1933—

(i) page 3425, line 14, for “\*anuamtaaaa” read “\*anuamta”.

(ii) page 3443, line 2, for the words “there were four” read “there are four”.

(iii) page 3445, line 8, for the word “lost” read “last”.





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Child Marriage Restraint (Amendment)—(Mr. B. N. Misra)—

Introduced. 2536.

Child Marriage Restraint (Amendment)—(Mr. M. Maswood Ahmad)—

Introduced. 2535.

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Child Marriage Restraint (Repealing)—

Introduced. 2532.

Children (Pledging of Labour)—

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Considered and passed. 245-58.

Passed by the Council of State. 931.

Code of Civil Procedure (Amendment)—(Mr. N. M. Joshi)—

Introduced. 2536.

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Introduced. 2539.

Code of Criminal Procedure (Amendment)—(Rao Bahadur M. C. Rajah)—

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Considered and passed. 2238-78.

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Introduced. 2533.

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Introduced. 2536.

Hindu Widows' Right of Maintenance.—

Introduced. 2535.

Imperial Bank of India (Amendment)—

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Indian Bar Councils (Amendment)—

Introduced. 2538.

Indian Criminal Law Amendment —

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Consideration of clause 5. 2564-77.

Consideration of Schedule I. 2370-2413.

Consideration of Schedules II and III. 2578-2606.

Consideration of Schedule III. 2656-91.

Passed. 2753.

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**Indian Forest (Amendment) —**

Introduced. 54.

Considered and passed. 323-26.

Passed by the Council of State. 931.

**Indian Income-tax (Amendment)—(Amendment of section 4) —**

Referred to Select Committee. 741-71.

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Motion to circulate, negatived. 3471.

Motions to consider and to recommit to Select Committee. 3477-84.

Motion to recommit to Select Committee, negatived. 3484.

Consideration of clause 2. 3484-3532.

Passed. 3532.

**Indian Income-tax (Amendment)—(Amendment of sections 5, 23, 30, etc, by Sir Hari Singh Gour) —**

Referred to Select Committee. 140-51.

**Indian Income-tax (Second Amendment) —**

Referred to Select Committee. 771-74.

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**Indian Marine (Amendment) —**

Introduced. 54.

Considered and passed. 320-23.

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Motions to refer to Select Committee and to circulate. 547-607, 621-67, 3588-3625.

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Passed. 3420-35.

**Indian Merchant Shipping (Second Amendment) —**

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**Indian Penal Code (Amendment) —**

Introduced. 2538.

**Indian Railways (Amendment)—Amendment of section 51) —**

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**Indian Railways (Amendment)—(Amendment of sections 108 and 131) —**

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**Indian Tariff (Ottawa Trade Agreement) Amendment —**

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**Indian Tariff (Ottawa Trade Agreement) Supplementary Amendment —**

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Considered and passed. 3104-24.

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- Indian Wireless Telegraphy —  
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- Land Acquisition (Amendment) —  
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- Mussalman Wakf Validating (Amendment) —  
Introduced. 2535.
- Negotiable Instruments (Amendment) —  
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Introduced. 2537.
- Payment of Wages —  
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- Provincial Criminal Law Supplementing —  
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Passed. 3254-3268.  
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- Removal of doubts about the application of the doctrine of representation, in case of succession to Stridhan under the Dayabhag —  
Introduced. 2538.
- Repealing and Amending —  
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**RETURN TICKETS.**

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**ROY, RAI BAHADUR SUKHRAJ—**

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**ROY, RAI BAHADUR SUKHRAJ—*contd.*****Question re—**

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**ROYAL TURF CLUB—**

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**Question re—**

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— for grant of interviews with the Bengal State Prisoners and detenus. 1210-11.

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— for promotion of clerks in the Government of India Press, New Delhi. 2894.

— for recruitment and training of subordinate staff on the East Indian Railway. 2489-93.

— regarding possession of arms and swords. 111-12.

**RULING(S) BY MR. CHAIRMAN (SIR HARI SINGH GOUR)—**

**Bill(s)—**

After a motion for consideration or reference of a — to a Select Committee is made, the matter passes out of the hands of the Chair and of the Mover of the — and it is then a matter entirely in the hands of the House. 1255.

**Cut Motion—**

A purely economy cut cannot be converted into a vote of censure. 1082.

**RULING(S) BY MR. CHAIRMAN (SIR HARI SINGH GOUR)—*contd.***

**Cut Motion—**

On a purely economy cut, Honourable Members have to give reasons only for effecting economy and not to give vent to specific grievances. 1064, 1065.

**Demands for Supplementary Grants—**

An Honourable Member can go on reading Demands for Grants page after page as introductory to or explanation of his speech. 1303.

During the voting on Supplementary Grants questions of principle should not be raised and Honourable Members should strictly confine themselves to observations arising out of the specific sum of the Supplementary Grant. 1326.

Honourable Members have very limited scope of discussion on Demands for Supplementary Grants and, therefore, questions of policy cannot be discussed under these heads. 1334.

In voting on Supplementary Grants questions which strictly relate to the Supplementary Demands can be debated, but the general question of policy or any matter extraneous to the demand cannot be raised. 1311.

**Miscellaneous—**

An Honourable Member is entitled to reinforce his argument by reading quotations and there is no limit to the length of the quotation that he may read. 1194.

If an Honourable Member is going to withdraw his motion, a long speech is out of place. 1080.

It is in the discretion of the Chair to permit reading out quotations if they are not unduly long. 1308.

It is perfectly open to an Honourable Member to read a speech or extract and say that those are his views in the same sense that he reads a written speech. There is no standing order that precludes an Honourable Member from reading out extracts, but it must be left to his good sense. 1276.

The Chair is precluded from considering any authority for a Resolution to be moved by another Honourable Member, which is not in writing, under Standing Orders. 1406.

**RULING(S) BY MR. CHAIRMAN (SIR HARI SINGH GOUR)—concl'd.****Question(s)—**

It is the privilege of the House to waive the Standing Order by unanimous consensus of opinion and utilise the — hour for the discussion of any other subject. 1051.

**RULING(S) BY MR. DEPUTY PRESIDENT (MR. R. K. SHANMUKHAM CHETTY)—****Bill(s)—****Select Committee—**

Honourable Members should restrict themselves to the general principles of the Bill at the — stage. 627.

Honourable Members should speak in general terms when the reference of a — to a Select Committee is under discussion and reserve their detailed remarks for a later stage. 509.

**Cut Motion(s)—**

The fact that a Government Member pleases to give a wider answer to a particular Member will not preclude another Member from moving his —. 1872.

**Miscellaneous—**

Honourable Members cannot impute wrong motives to other Members. 699.

Honourable Members cannot indulge in any attacks on the Indian Princes. 1793.

It is in order to include the name of a Member, who has not taken the oath of allegiance, in the list of members for the Select Committee, but he would not be entitled to sit on that Committee unless he has taken the oath of allegiance before them. 283.

No Honourable Member can leave the House when the Chair remains standing. 1919.

While it will be permissible for an Honourable Member to read out reasonable quotations from a publication, — the practice of simply reading out the publication as part of a speech ought to be seriously deprecated. 1886.

**RULING(S) BY MR. DEPUTY PRESIDENT (MR. R. K. SHANMUKHAM CHETTY)—cont'd.****Personal explanation(s)—**

Honourable Members are entitled to give a —, but not an exposition of what they said in their speech. 534.

**Question(s)—**

An Honourable Member must ask a specific — and not make detailed explanations. 294.

If a part of the Army in India has been sent to any place outside British India, and since the Army in India is paid for by the Indian exchequer, it is quite in order for any Honourable Member to ask the—, "at whose request were such troops sent". 1735.

**RULING(S) BY MR. PRESIDENT (THE HONOURABLE MR. R.K. SHANMUKHAM CHETTY)—****Act(s)—**

It is not open to any Honourable Member of the Legislative Assembly to question the validity of the enactment of a Local Legislature. 3129-30.

The Legislative Assembly is not a competent body to discuss whether a particular — passed by a Local Legislature is *ultra vires* or *intra vires* of that Legislature. 3127.

**Amendments to Acts—**

The fact that a Bill seeks to make certain amendments in an Act does not lay open the entire Act for the consideration of the House. 2185.

**Bill(s)—**

All amendments to a Bill must be within its scope which is to be sought not in the Statement of Objects and Reasons, but either in the Title or in the Preamble. 2161.

Even if it is the intention of the Government to take away a power conferred on the High Courts under the Government of India Act, it will not be competent for the House to take that away. The Chair cannot allow a clause which gives scope for the misunderstanding that it seeks to take away certain powers vested in the High Courts under the Government of India Act. 3154.

**RULING(S) BY MR. PRESIDENT (THE HONOURABLE MR. R. K. SHAN-MUKHAM CHETTY)—contd.**

**Bill(s)—**

Even though the subject matter of a proposed legislation in the Legislative Assembly may affect any provincial legislation, so long as the sanction of His Excellency the Governor General has been obtained for the introduction of that legislation, it will be perfectly within the competence of the Legislative Assembly to proceed with that legislation. 2529-30.

Honourable Members are at perfect liberty to discuss the sections of a local Act so far as they are relevant to the — under discussion. 3135.

No other Member except the Member in charge of a — can make further motions after its introduction. 3045-46.

Very strong reasons would be required to cut short the discussion of a — in the middle and then go on to another. 2446.

While the scope of a Bill is to be sought in its Title and Preamble, these are not to be construed as an exhaustive catalogue of the purposes of the Bill. The Title and the Preamble give the purpose of the substance of it, but it is not necessary that ancillary or consequential matters should be referred to in the Title and the Preamble of a Bill. So long as sections of a Bill are ancillary or consequential to the original purpose of a Bill, those provisions of a Bill will be in order. 2727-28.

**Circulation—**

On a motion for circulation, Honourable Members cannot go into the details of a —. 2510.

**Select Committee—**

In order to include the name of a particular Member in a Select Committee, the consent of that Member is necessary. 3624.

No amount of undertaking on the part of any Honourable Member of Government as to the scope of a Bill can bind the decisions of the Chairman of the Select Committee. 3622.

**RULING(S) BY MR. PRESIDENT (THE HONOURABLE MR. R. K. SHAN-MUKHAM CHETTY)—contd.**

**Bill(s)—**

**Select Committee—**

The decision during the discussions on the floor of the House as to whether particular amendments or remarks are within the scope of a Bill is entirely vested in the Chair and, similarly, in the proceedings of a Select Committee, it is entirely within the discretion of the Chairman of the Select Committee, whoever he might be, to decide, when a question arises in the Select Committee, whether that question is within the scope of the Bill or not. 3622.

When Bills are referred to a Select Committee, it is open to any member of that Committee to move in the Select Committee amendments which are within the scope of the Bill. 3622.

While it is permissible for Honourable Members to ascertain from Government what their attitude with regard to a particular point would be in the Select Committee, it is not open to any Honourable Member on the Treasury Benches to say on the floor of the House what is within the scope of the Bill. 3622.

**Closure—**

Honourable Members have got perfect liberty to apply the — motion at any stage they like, but it is for the Chair to decide whether it will be accepted or not, and the Chair, in deciding whether it will be accepted or not, always takes into consideration the fact whether there has been a fair debate on the question before the House. 3432-33.

When a motion is made that the question be now put, it is for the Chair to decide whether it will agree to accept the closure or not. But it should be made perfectly clear that when the Chair agrees to accept a closure motion, the Chair does not thereby close the debate. It only gives an opportunity to the House itself to decide whether it will proceed with the debate or close the debate. The only circumstance in which the Chair will not accept a closure is when the Chair is convinced that the right of minorities has been suppressed and that there has not been a fair debate. 2516.

**RULING(S) BY MR. PRESIDENT (THE HONOURABLE MR. R. K. SHAN-MUKHAM CHETTY)—*contd.***

**Miscellaneous—**

Every Honourable Member has his own defects of speech, and every Member must be allowed to read or speak according to his capacity. 2933.

Honourable Members should not make any reference to the press gallery or to the visitors' gallery. 2320.

It is open to the House to revise its decision at any stage. 2579.

Members of the Executive Council of the Governor General who are not Members of the Legislative Assembly have no right to address the House in their individual capacities, but only as Government's spokesmen. 2516-17.

There is nothing unparliamentary in the expression that a Member of the House exploits a certain situation. 3051.

Unless there is any substantial volume of opinion or an infringement of the rights of other Honourable Members, an Honourable Member may be allowed to make some variation in the order of the agenda paper provided the items concerned stand in the name of that particular Honourable Member. 141.

**Point of Order—**

When a — is being raised, there cannot be a — on that. 2526.

**Question(s)—**

An Honourable Member is at liberty to withdraw his — at any time. 2993.

If an Honourable Member who has sent — is not in a position to be present in his seat to ask his —, he must authorise some other Honourable Member in writing to do so, and the authorisation must be sent to the President. In the absence of such authorisation, these — will be treated as unstarred — and the answers will be incorporated in the proceedings. 2979.

**RULING(S) BY MR. PRESIDENT (THE HONOURABLE MR. R. K. SHAN-MUKHAM CHETTY)—*concl.***

**Reports of Select Committees—**

The rights and privileges of non-official Members are not encroached upon by a formal presentation of the Report of a Select Committee on an official Bill on a day set apart for the transaction of non-official business. 3043-44.

**Rule(s)—**

No —, inconsistent with the provisions of the Government of India Act, can override the provisions of the Act itself. 2529.

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**RUPEE TENDER—**

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**Motion to reduce Demand for—**

"Indian Posts and Telegraphs Department (including Working Expenses) re—

Equitable apportionment of revenue between postal and telegraph branches. 1896.

Grant of special allowance to the postal subordinates employed in the Wynad-Malabar. 1875.

Grievances of ex-approved candidates in the Calcutta General Post Office. 1898-99.

Policy of Indian Posts and Telegraphs Department. 1886-94.

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**Indian Medical Council Bill—**

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**Indian Merchant Shipping (Amendment) Bill—**

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Question *re* interest in the Imperial Bank of India refused to be taken by Muslims and Muslim Trusts. 1513-14.

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**SALT—**

Demand for Grant. 1863.

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**SALT—contd.**

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*See* "Bill(s)".

**SALT TAX—**

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